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WATER SUPPLY OF LOS ANGELES

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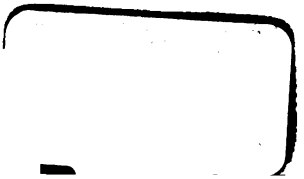

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WATER SUPPLY OF LOS ANGELES, CALIFORNIA

HEARING

BEFORE THE

COMMITTEE ON THE PUBLIC LANDS

HOUSE OF REPRESENTATIVES

SIXTY-FIFTH CONGRESS
THIRD SESSION

ON

S. 4023

A BILL GRANTING RIGHTS OF WAY OVER CERTAIN LANDS FOR THE WATER SUPPLY OF LOS ANGELES, CALIFORNIA

JANUARY 14, 1919

WASHINGTON
GOVERNMENT PRINTING OFFICE
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SIXTY-FIFTH CONGRESS.

THIRD SESSION.

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WATER SUPPLY OF LOS ANGELES, CAL.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE PUBLIC LANDS,
Tuesday, January 14, 1919.

The committee met at 10 o'clock a. m., Hon. Scott Ferris (chairman) presiding.

The CHAIRMAN. Gentlemen, the hearing this morning is on H. R. 10524 and S. 4023 and, without objection, both of these bills, with the reports thereon, will be printed at length at the beginning of the hearing and also the original act of June 30, 1906.

The papers referred to follow:

A bill (H. R. 10524) amending an act entitled "An act authorizing and directing the Secretary of the Interior to sell to the city of Los Angeles, California, certain public lands in California; and granting rights in, over, and through the Sierra Forest Reserve, the Santa Barbara Forest Reserve, and the San Gabriel Timberland Reserve, California, to the city of Los Angeles, California," approved June thirtieth, nineteen hundred and six.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section one of an act entitled "An act authorizing and directing the Secretary of the Interior to sell to the city of Los Angeles, California, certain public lands in California; and granting rights in, over, and through the Sierra Forest Reserve, the Santa Barbara Forest Reserve, and the San Gabriel Timberland Reserve, California, to the city of Los Angeles, Califonia," approved June thirtieth, nineteen hundred and six, he, and the same is hereby, amended to read as follows:

"SECTION 1. That there is hereby granted to the city of Los Angeles, California, a municipal corporation of the State of California, all necessary rights of way, not to exceed two hundred and fifty feet in width, over and through the public lands of the United States in the counties of Mono, Inyo, Kern, and Los Angeles, State of California, and over and through the Inyo, Sequoia, Santa Barbara, and Angeles National Forests, in said State, for the purpose of constructing, operating, and maintaining canals, ditches, pipes and pipe lines, flumes, tunnels, and conduits for conveying water to the city of Los Angeles, and for the purpose of constructing, operating, and maintaining power and electric plants, poles, and lines for the generation and distribution of electric energy, together with such lands as the Secretary of the Interior may deem to be actually necessary for power houses, diverting and storage dams and reservoirs, and necessary buildings and structures to be used in connection with the construction, operation, and maintenance of said water power and electric plants whenever said city shall have filed, as hereinafter provided, and the same shall have been approved by the Secretary of the Interior, a map or maps showing the boundaries, locations, and extent of said proposed rights of way for the purposes hereinabove set forth."

SEC. 2. That section two of the act entitled and approved as aforesaid be, and the same is hereby, amended to read as follows:

"SEC. 2. That on or before the thirty-first day of December, nineteen hundred and twenty-two, the city of Los Angeles shall file with the register of the United States land offices in the districts where the lands traversed by said rights of way are located, a map or maps showing the boundaries, locations, and extent of said proposed rights of way, for the purposes stated in section one of this act, and there shall also be filed within that time all desired changes of location, the amended map or maps necessary to show such changes of location, to be filed in the same manner, and subject to the same approval as are the original map or maps of location, but no construction shall be commenced on any of said linds until the map or maps have been filed as herein provided and approved by the Secretary of the Interior, and the approval by

the Secretary of the Interior of any amended map or maps showing changes of location of said rights of way shall operate as an abandonment ipso facto by the city of Los Angeles, to the extent of such change or changes, of the rights of way indicated on the original map or maps: *Provided*, That any rights inuring to the city of Los Angeles under this act shall, on approval of the map or maps referred to, by the Secretary of the Interior, relate back to the date of the filing of said map or maps with the register of the United States Land Office, as provided herein."

SEC. 3. That section six of the act entitled and approved as aforesaid be, and the same is hereby, amended to read as follows:

"SEC. 6. That the city of Los Angeles is prohibited from ever selling or letting to any corporation or individual, except a municipality, the right for such corporation or individual to sell or sublet the water or the power generated for lighting, telephone, telegraph, or other purposes, sold or given to it or him by the city."

An act (S. 4023) amending an act entitled "An act authorizing and directing the Secretary of the Interior to sell to the city of Los Angeles, California, certain public lands in California; and granting rights in, over, and through the Sierra Forest Reserve, the Santa Barbara Forest Reserve, and the San Gabriel Timberland Reserve, California, to the city of Los Angeles, California," approved June thirtieth, nineteen hundred and six.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section one of an act entitled "An act authorizing and directing the Secretary of the Interior to sell to the city of Los Angeles, California, certain public lands in California; and granting rights in, over, and through the Sierra Forest Reserve, the Santa Barbara Forest Reserve, and the San Gabriel Timberland Reserve, California, to the city of Los Angeles, California," approved June thirtieth, nineteen hundred and six, be, and the same is hereby, amended to read as follows:

"SEC. 1. That there is hereby granted to the city of Los Angeles, California, a municipal corporation of the State of California, all necessary rights of way, not to exceed two hundred and fifty feet in width, over and through the public lands of the United States in the counties of Mono, Inyo, Kern, and Los Angeles, State of California, and over and through the Inyo, Sequoia, Santa Barbara, and Angeles National Forests, in said State, for the purpose of constructing, operating, and maintaining canals, ditches, pipes, and pipe lines, flumes, tunnels, and conduits for conveying water to the city of Los Angeles, and for the purpose of constructing, operating, and maintaining power and electric plants, poles, and lines for the generation and distribution of electric energy, together with such lands as the Secretary of the Interior may deem to be actually necessary for power houses, diverting and storage dams and reservoirs, and necessary buildings and structures to be used in connection with the construction, operation, and maintenance of said water, power, and electric plants whenever said city shall have filed, as hereinafter provided, and the same shall have been approved by the Secretary of the Interior, a map or maps showing the boundaries, locations, and extent of said proposed rights of way for the purposes hereinabove set forth: *Provided, however*, That the grant hereby made shall not apply to lands located in the drainage basin of Mono Lake or of Kern River, in said State."

SEC. 2. That section two of the act entitled and approved as aforesaid be, and the same is hereby, amended to read as follows:

"SEC. 2. That on or before the thirty-first day of December, nineteen hundred and twenty-two, the city of Los Angeles shall file with the register of the United States land offices in the districts where the lands traversed by said rights of way are located a map or maps showing the boundaries, locations, and extent of said proposed rights of way, for the purposes stated in section one of this act, and there shall also be filed within that time all desired changes of location, the amended map or maps necessary to show such changes of location, to be field in the same manner, and subject to the same approval as are the original map or maps of location, but no construction work shall be commenced on any of said lands until the map or maps have been filed as herein provided and until said map or maps and the proposed plan of development have been approved by the Secretary of the Interior, and the approval by the Secretary of the Interior of any amended map or maps showing changes of location of said rights of way shall operate as an amendment ipso facto by the city of Los Angeles, to the extent of such change or changes, of the rights of way indicated on the

original map or maps: *Provided*, That any rights inuring to the city of Los Angeles under this act shall, on approval by the Secretary of the Interior of the map or maps and the plan of development referred to, relate back to the date of the filing of said map or maps with the register of the United States Land Office, as provided herein."

SEC. 3. That section five of the act entitled and approved as aforesaid be, and the same is hereby, amended to read as follows:

"SEC. 5. That all lands over which the rights of way mentioned in this act shall pass shall be disposed of, subject to such easements: *Provided, however*, That if the construction of said waterworks shall not have been begun in good faith within five years of the date of the approval of this act, then all rights hereunder shall be forfeited to the United States: *And provided further*, That if any power or electric works or structure to be used in connection therewith shall not be completed within five years after approval of the map or maps of rights of way for such works or structure as herein provided, or within such additional time as the Secretary of the Interior shall, in his discretion, grant, then such rights herein granted shall be forfeited as to any uncompleted portion of such works or structure, to the extent that the same is not completed at the date of the forfeiture."

SEC. 4. That section six of the act entitled and approved as aforesaid be, and the same is hereby, amended to read as follows:

"SEC. 6. That the city of Los Angeles is prohibited from ever selling or letting to any corporation or individual, except a municipality, the right for such corporation or individual to sell or sublet the water or power generated for lighting, telephone, telegraph, or other purposes, sold or given to it or him by the city."

[Senate Report No. 401, Sixty-fourth Congress, second session.]

The Committee on Public Lands, to which was referred the bill (S. 4023) amending an act entitled "An act authorizing and directing the Secretary of the Interior to sell to the city of Los Angeles, Cal., certain public lands in California; and granting rights in, over, and through the Sierra Forest Reserve, the Santa Barbara Forest Reserve, and the San Gabriel Timberland Reserve, Cal., to the city of Los Angeles, Cal.," approved June 30, 1906, having had the same under consideration, begs leave to report it back to the Senate with amendments, and as amended recommend that the bill do pass.

The bill was referred to the Departments of the Interior and of Agriculture, and the Secretaries of the departments furnished the committee with the following reports thereon:

DEPARTMENT OF THE INTERIOR,
Washington, April 10, 1918.

MY DEAR SENATOR: Complying with the request of the Senate Committee on Public Lands, I have the honor to report on S. 4023, Sixty-fifth Congress, second session, as follows:

This bill is entitled "An bill amending an act entitled 'An act authorizing and directing the Secretary of the Interior to sell to the city of Los Angeles, Cal., certain public lands in California, and granting rights in, over, and through the Sierra Forest Reserve, the Santa Barbara Forest Reserve, and the San Gabriel Timberland Reserve, California, to the city of Los Angeles, Cal.," approved June 30, 1906."

The statute in question is commonly known as the Los Angeles water act and its principal purpose, as set forth in section 1 of the act, was to secure for the city of Los Angeles a municipal water supply. Incidentally, however, the city was empowered by the act to acquire and use every possible power project in the Owens River Valley to be used by the city in any manner it might deem proper and profitable. Pursuant to the terms of the act, the city has obtained rights of way for an extensive aqueduct system consisting of a conduit, storage, regulating, and distributing reservoirs which, as is generally known, has been constructed and is now in operation. In constructing its aqueduct it was found advisable to locate it somewhat differently than as shown upon the approved plans, and it is understood that some 70 miles of the completed aqueduct are located upon lands not shown on the approved plans, and hence not authorized under the provisions of the act. Under section 4 of the act the city has pur-

chased approximately 23,200 acres of land in Owens River Valley at $1.25 per acre, to be used in connection with this system.

According to the proposed bill, only sections 1, 2, and 6 of the act are amended, presumably leaving the other sections intact and in full force and effect. If this presumption is incorrect, attention is directed to a provision in section 5 of the act, providing for forfeiture on account of nonconstruction or cessation of construction which is deemed very important.

The purpose of the proposed amendment of section 1 is to extend the grant, which expired by limitation on June 30, 1909, to those portions of the aqueduct and other structures which are not located upon the approved right of way and to enlarge the scope of the grant by adding lands within Mono County, Cal., as well as within certain national forests which were not covered by the original act. With the exception of the Inyo National Forest, which extends into Mono County, the forests named in this amendment embrace practcally the same areas as were covered by the reserves named in the original act. Lands within the former San Gabriel Timberland Reserve are now part of the Angeles National Forest, while a part of the Sierra is now a part of the Inyo National Forest. Incidentally, it may be stated that part of the lands within Mono County and certain lands within Kern County are within different drainage areas from those within the Owens River Valley and along the aqueduct, such Mono County lands being within the drainage area of Mono Lake and such Kern County lands within the drainage area of the Kern River.

Section 2 of the proposed bill gives the city until December 31, 1922, for the filing of maps showing the rights of way desired and changes or amendments thereof, while the original act provided one year for the filing of original maps of location and two years thereafter for filing maps of amended location. It should be noted that the proposed bill places no time limit upon the beginning or completing of construction. If the proposed bill is approved, it should be so amended that a time limit for beginning or completing construction is fixed in the bill itself, or the Secretary of the Interior should be authorized to fix such limit.

Section 3 of the proposed bill extends the scope of section 6 of the act by prohibiting the city from ever selling to any corporation or individual, except a municipality, the right for such corporation or individual to sell or sublet the power generated for lighting, telephone, telegraph, or other purposes sold or given to it or him by the city in addition to the water.

The general right-of-way acts of February 15, 1901 (31 Stat., 790), section 4 of the act of February 1, 1905 (33 Stat., 628), and March 4, 1911 (36 Stat., 1253), provide for rights of way over the public lands and national forests for all the purposes mentioned in section 1 of the proposed bill, but the extent of the grant or right of way authorized, by this act is less than 250 feet in width. Prior to the passage of the act of June 30, 1906, *supra*, and since the expiration of the time for action thereunder, the city has availed itself of the privileges granted by the general acts.

There is now pending before Congress a general water-power bill under the terms of which the city of Los Angeles, as well as any other municipality, could secure rights of way for power development within the public lands and national forests. In so far, however, as the city of Los Angeles has located any structures outside of the approved right of way as secured under the original act, I believe the act should be amended so that its provisions may cover the entire existing project.

Should satisfactory general water-power legislation be not passed in time to meet the city's requirements, I think it would be advisable to extend the existing act to cover such additional power developments as the city may need, provided proper limitations be placed upon the territory within which such developments may be located with relation to the aqueduct and upon the time within which the works must be begun and completed. The following amendments to the bill are suggested for the purpose of imposing such limitations:

Page 2, after line 25, insert "*Provided, however*, That the grant hereby made shall not apply to lands located in the drainage basin of Mono Lake or of Kern River, in said State."

Page 3, line 17, insert before "approved" the following: "until said map or maps and the proposed plan of development have been." Line 25, after "approval" insert "by the Secretary of the Interior." After "maps" insert "and the plan of development." Omit "by."

Page 4, line 1, omit "the Secretary of the Interior."

Page 4, after line 3, insert:

"SEC. 3. That section 5 of the act entitled and approved as aforesaid be, and the same is hereby, amended to read as follows:

"'SEC. 5. That all lands over which the rights of way mentioned in this act shall pass shall be disposed of, subject to such easements: *Provided, however,* That if the construction of said waterworks shall not have been begun in good faith within five years of the date of the approval of this act, then all rights hereunder shall be forfeited to the United States: *And provided further,* That if any power or electric works or structure to be used in connection therewith shall not be completed within five years after approval of the map or maps of rights of way for such works or structure as herein provided, or within such additional time as the Secretary of the Interior shall, in his discretion, grant, then such rights herein granted shall be forfeited as to any uncompleted portion of such works or structure, to the extent that the same is not completed at the date of forfeiture.'"

Page 4, line 4, for "section 3" substitute "section 4."

Cordially, yours,

S. G. HOPKINS, *Acting Secretary.*

Hon. HENRY L. MYERS,
Chairman Committee on Public Lands,
United States Senate.

DEPARTMENT OF AGRICULTURE,
Washington, April 11, 1918.

Hon. HENRY L. MYERS,
United States Senate.

DEAR SIR: Reference is made to the request of the Committee on Public Lands for a repart on S. 4023 Sixty-fifth Congress, second session.

This bill is a proposed amendment to the act approved June 30, 1906 (34 Stat., 801), granting rights of way to the city of Los Angeles within certain national forests and across certain public lands in the State of California for the purpose of constructing a water-supply system for the city of Los Angeles. Under the provisions of this act the city of Los Angeles has constructed an aqueduct from the Owens Valley to the city has built several storage reservoirs, hydroelectric power plants, and transmission lines. It was found necessary during th progress of construction to depart from the right of way as approved under the provisions of the act, and it is understood that some 70 miles of the constructed aqueduct are located outside of the approved right of way. One purpose of the proposed bill is to provide a means whereby approval can be secured for the right of way actually occupied by the aqueduct. A second purpose of the proposed bill is to secure additional rights of way for reservoirs, conduits, power houses, and transmission lines for the development of electric power, since the time within which maps might be filed for such rights of way under the original act has expired. These plants will be located along the Owens River gorge at the head of the aqueduct system, on certain small tributaries of the Owens River in the Owens Valley, and along the aqueduct itself near its terminus.

Although the language of the proposed bill is broad enough to include power developments in the Mono Lake and Kern River drainage, it is understood that it was not the intention to include such developments within the scope of this bill. However, to make this intention certain, it is suggested that the following proviso be inserted after line 25, on page 2 of the proposed bill:

"*Provided, however,* That the grant hereby made shall not apply to lands located in the drainage basin of Mono Lake or of Kern River, in said State."

With this proviso the bill will be limited in its application to lands within the drainage area of Owens River and along the aqueduct itself. The plans for these developments have been under contemplation for some years by the city of Los Angeles, and the proposed extensions of the rights of way hitherto granted are largely for the purpose of completing a general scheme of development in connection with the aqueduct and the city's water supply.

If there existed satisfactory general legislation under which the city could secure those rights of way which it desires for power development, the department would recommend that the proposed bill be confined, in its scope, to an approval of those portions of the rights of way now occupied and used

which are not covered by the original act of June 30, 1906. Should a bill such as is now before the special water-power committee of the House of Representatives be approved, there will be no need of passing special legislation to enable the city of Los Angeles to secure the rights of way which it requires for the completion of its power development plans. If, however, satisfactory general legislation should not pass, or should be unduly delayed, this department would not object to the passage of the proposed bill if confined to the Owens River basin and the territory adjacent to the aqueduct, and if further amended so as to give authority to the Secretary of the Interior to pass upon the proposed plan of development, and so that a reasonable time limit for construction will be fixed.

In order that the bill may conform to these recommendations, the following proposed amendments are submitted:

Page 2, after line 25, insert: "*Provided, however*, That the grant hereby made shall not apply to lands located in the drainage basin of Mono Lake or of Kern River, in said State."

Page 3, line 17, before "approved" insert: "until said map or maps and the proposed plan of development have been." Line 25, after "approval," insert: "by the Secretary of the Interior"; after "maps" insert: "and the plan of development"; omit "by."

Page 4, line 1, omit "the Secretary of the Interior"

Page 4, after line 3, insert:

"SEC. 3. That section five of the act entitled and approved as aforesaid be, and the same is hereby, amended to read as follows:

"'SEC. 5. That all lands over which the rights of way mentioned in this act shall pass shall be disposed of subject to such easements: *Provided, however*, That if the construction of said waterworks shall not have been begun in good faith within five years of the date of the approval of this act, then all rights hereunder shall be forfeited to the United States: *And provided further*, That if any power or electric works or structure to be used in connection therewith shall not be completed within five years after approval of the map or maps of rights of way for such works or structures as herein provided, or within such additional time as the Secretary of the Interior shall, in his discretion, grant, then the rights herein granted shall be forfeited as to any uncompleted portion of such works or structure to the extent that the same is not completed at the date of the forfeiture.'"

Page 4, line 4, for "Section 3" substitute "Section 4."

Very truly, yours,

D. F. HOUSTON,
Secretary.

[Public—No. 395.]

An act authorizing and directing the Secretary of the Interior to sell to the city of Los Angeles, California, certain public lands in California; and granting rights in, over and through the Sierra Forest Reserve, the Santa Barbara Forest Reserve, and the San Gabriel Timber Land Reserve, California, to the city of Los Angeles, California.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby granted to the city of Los Angeles, California, a municipal corporation of the State of California, all necessary rights of way, not to exceed two hundred and fifty feet in width, over and through the public lands of the United States in the counties of Inyo, Kern, and Los Angeles, State of California, and over and through the Sierra and Santa Barbara Forest Reserves and the San Gabriel Timber Land Reserve, in said State, for the purpose of constructing, operating, and maintaining canals, ditches, pipes, and pipe lines, flumes, tunnels, and conduits for conveying water to the city of Los Angeles, and for the purpose of constructing, operating, and maintaining power and electric plants, poles, and lines for the generation and distribution of electric energy together with such lands as the Secretary of the Interior may deem to be actually necessary for power houses, diverting and storage dams and reservoirs, and necessary buildings and structures to be used in connection with the construction, operation, and maintenance of said water, power, and electric plants, whenever said city shall have filed, as hereinafter provided, and the same shall have been approved by the Secretary of the Interior, a map or maps showing the boundaries, locations, and extent of said proposed rights of way for the purposes hereinabove set forth.

SEC. 2. That within one year after the passage of this act the city of Los Angeles shall file with the registers of the United States land offices in the districts where the lands traversed by said rights of way are located, a map or maps showing the boundaries, locations, and extent of said proposed rights of way, for the purposes stated in section one of this act; but no construction work shall be commenced on said land until said map or maps have been filed as herein provided and approved by the Secretary of the Interior: *Provided, however*, That any changes of location of said rights of way may be made by said city of Los Angeles, within two years after the filing of said map or maps, by filing such additional map or maps as may be necessary to show such changes of location, said additional map or maps to be filed in the same manner as the original map or maps; and the approval of the Secretary of the Interior of said map or maps showing changes of location of said rights of way shall operate as an abandonment by the city of Los Angeles to the extent of such change or changes, of the rights of way indicated on the original maps: *And provided further*, That any rights inuring to the city of Los Angeles under this act shall, on the approval of the map or maps referred to herein by the Secretary of the Interior, relate back to the date of the filing of said map or maps with the register of the United States Land Office, as provided herein.

SEC. 3. That the rights of way hereby granted shall not be effective over any land upon which homestead, mining, or other existing valid claims shall have been filed or made until the city of Los Angeles shall have procured proper relinquishments of all such entries and claims, or acquired title by due process of law and just compensation paid to said entrymen or claimants, and caused proper evidence of such fact to be filed with the Secretary of the Interior: *Provided, however*, That this act shall not apply to any lands embraced in rights of way heretofore approved under any act of Congress, nor affect the adjudication of any pending applications for rights of way by the owner or owners of existing water rights; and that no private right, title, interest, or claim of any person, persons, or corporation, in or to any of the lands traversed by or embraced in said right of way shall be interfered with or abridged, except with the consent of the owner or owners or claimant or claimants thereof, or by due process of law, and just compensation paid to such owner or claimant.

SEC. 4. That the city of Los Angeles shall conform to all regulations adopted and prescribed by the Secretary of Agriculture governing the forest reserves, and shall not take, cut, or destroy any timber within the forest reserves, except such as may be actually necessary to remove to construct its power plants and structures, poles and flumes, storage dams and reservoirs; and it shall pay to the Forest Service of the Department of Agriculture the full value of all timber and wood cut, used, or destroyed on any of the rights of way and lands within forest reserves hereby granted: *Provided further*, That the city shall construct and maintain in good repair bridges or other practicable crossings over its rights of way within the forest reserves when and where directed in writing by the Forester of the United States Department of Agriculture, and elsewhere on public lands along the line of said works as required by the Secretary of the Interior; and said grantee shall, as said water works are completed, if directed by the Secretary of the Interior, construct and maintain along each side of said right of way a lawful fence as defined by the laws of the State of California, with such lanes or crossings for domestic animals as the aforesaid officers shall require: *Provided further*, That the city of Los Angeles shall clear its rights of way within forest reserves of any débris or inflammable material as directed by the Forester of the United States Department of Agriculture: *Provided further*, That the said city shall allow any wagon road which it may construct within forest reserves to be freely used by forest officers and the officers of the Interior Department and by the public, and shall allow to the Forest Service of the United States Department of Agriculture and to the officers of the Interior Department, for official business only, the free use of any telephones, telegraphs, or electric railroads it may construct and maintain within the forest reserves or on the public lands, together with the right to connect with any such telephone lines private telephone wires for the exclusive use of said Forest Service or of the Interior Department: *And provided further*, That the Forest Service may, within forest reserves, protect, use, and administer said land and resources within said rights of way under forest reserve laws and regulations, but in so doing must not interfere with the full enjoyments of the right of way by the city of Los Angeles: *And provided further*, That in the event that the Secretary of the Interior shall abandon the project known as the Owens River project for the irrigation of lands in Inyo County, California, under the act of

June seventeenth, nineteen hundred and two, the city of Los Angeles, in said State, is to pay to the Secretary of the Interior, for the account of the reclamation fund established by said act, the amount expended for preliminary surveys, examinations, and river measurements, not exceeding fourteen thousand dollars, and in consideration of said payment the said city of Los Angeles is to have the benefit of the use of the maps and field notes resulting from said surveys, examinations, and river measurements, and the preference right to acquire at any time within three years from the approval of this act any lands now reserved by the United States under the terms of said reclamation act in connection with said project, necessary for storage or right-of-way purposes, upon filing with the register and receiver of the land office in the land district where any such lands sought to be acquired are situated a map showing the lands desired to be acquired, and upon the approval of said map or maps by the Secretary of the Interior and upon the payment of one dollar and twenty-five cents per acre to the receiver of said land office title to said land so reserved and filed on shall vest in said city of Los Angeles, and such title shall be and remain in said city only for the purposes aforesaid, and shall revert to the United States in the event of the abandonment thereof for the purposes aforesaid: *Provided, however,* That the terms of this act shall not apply to any lands upon Bishop Creek or its branches in said county of Inyo.

SEC. 5. That all lands over which the rights of way mentioned in this act shall pass shall be disposed of subject to such easements: *Provided, however,* That if construction of said water works shall not have been begun in good faith within five years from the date of approval of this act, or if after such period of five years there shall be a cessation of such construction for a period of three consecutive years, then all rights hereunder shall be forfeited to the United States.

SEC. 6. That the city of Los Angeles is prohibited from ever selling or letting to any corporation or individual, except a municipality, the right for such corporation or individual to sell or sublet the water sold or given to it or him by the city.

SEC. 7. That the right to amend, alter, or repeal this act at any time is hereby reserved.

Approved, June 30, 1906.

STATEMENT OF MR. W. B. MATHEWS, 645 SOUTH OLIVE STREET, LOS ANGELES, CAL.

The CHAIRMAN. Mr. Mathews, you may proceed.

Mr. MATHEWS. Mr. Chairman, this is an old project, not a new one. Identical bills were introduced in the Senate and the House in behalf of the city of Los Angeles.

The CHAIRMAN. Have there been any hearings on this bill?

Mr. MATHEWS. There was a very brief hearing; that is, the chairman gave me a moment or two last winter.

The CHAIRMAN. It was not a printed hearing?

Mr. MATHEWS. No, sir. In 1906 Congress passed an act in aid of the Los Angeles water and power project. The project was mainly water, but power was an inseparable incident of the project. The city of Los Angeles, situated in a semiarid region, required a large additional supply of water. The bill gave the city a year within which to file its selections of lands required, and two years additional in which to make amendments. The city bonded itself to the utmost limit in connection with its water project, and expended on that project something over $23,000,000. The city was so loaded with its water scheme that it could not either muster the money or the time to take advantage fully of the provisions of the act in regard to filing its maps for its power project. However, the city has proceeded with its power development as fast as it could since that time, using Forest

Service permits. It has planted large investments under Forest Service permits, intending and expecting to come to Congress in time and have Congress give it a solid foundation for its project.

The aqueduct project is about 250 miles long. In actually building it it was found necessary to depart from the approved rights of way. The city was so pressed for time, having only a year in which to select the rights of way, it found that when it got to locating the aqueduct on the ground it had to depart from the established rights of way as approved by the department. It is off of the approved rights of way from 70 to 80 miles in the aggregate extent.

This bill has for its object and purpose the enabling of the city to file maps for rights of way according to the actual location of the aqueduct, as well as to enable the city to carry out and complete its power scheme.

The city has expended on its power project alone over $8,000,000. It has built and put in operation generating hydroelectric plants with an aggregate capacity of about 40,000 horsepower. It has carried its power into the city of Los Angeles. It is furnishing, directly and indirectly, power to over 50,000 consumers. It is furnishing all the power used at the Los Angeles Harbor for the construction of the Government ships.

The power project, therefore, is not a new one. It is not a project which awaits action of Congress in order to start. It is a project pretty well along toward completion.

Now, identical bills, as I have stated, were filed in the Senate and in the House, and the bills were referred to the two departments—Agriculture and Interior. Those two departments agreed on suggested amendments to the bill. Those amendments went to the Senate Public Lands Committee; the city agreed to those amendments; they were incorporated in the bill and the bill passed, and that is the bill which is here as a substitute—that is, Senate bill 4023.

Mr. TAYLOR. And this bill, S. 4023, contains all the amendments that those departments agreed upon or recommended?

Mr. MATHEWS. Absolutely every one, Mr. Taylor.

Mr. OSBORNE. Mr. Mathews, if you will permit me, I want to say to the committee, or to those who perhaps are not familiar with the Los Angeles Aqueduct, that this construction is a very remarkable construction. It is through the mountains, most of it, and there are over 50 miles of tunnels through the solid rock that have been constructed. I speak of that so as to give some suggestion of the large character of the work.

Mr. SCOTT. Why was there a diversion of 80 miles made from the original plan.

Mr. OSBORNE. Because in building through the mountains they found, I suppose, that another way was more economical. The aqueduct is nearly all in the mountains, and the changes of route were for the purpose of facilitating construction.

Mr. MATHEWS. The country is also partially volcanic, and some changes were absolutely essential in order to avoid physical difficulties which they encountered when they penetrated the mountains.

Mr. SCOTT. Did the element of taking in additional consuming territory enter into it?

Mr. MATHEWS. No; not at all.

Mr. CRAMTON. Did the original legislation specify the route or place the authority or the approval with the Interior Department?

Mr. MATHEWS. The act provided for the approval of the Interior Department as to what was necessary for the purpose. It did not specify a route but required the maps to be filed showing the land selected, and the Secretary was clothed with power to determine what was necessary and to approve or disapprove accordingly.

Mr. CRAMTON. So that as these emergencies arose requiring a change of the route, there was full authority in the Interior Department to act.

Mr. MATHEWS. No; not exactly. I may say that the time for the original selection of rights of way for the aqueduct was 12 months, with two years for amendments, and many of the changes found necessary came up after the expiration of all the limitations of the act; so that, after the expiration of those limitations, there was no power left under the act for the department to formerly approve the final locations, to the extent, as I say, of between 70 and 80 miles, at the least, over public lands located in a desert and largely uninhabited country.

Mr. CRAMTON. So at the time the change was made, there was no authority in the Interior Department to approve?

Mr. MATHEWS. No; there was no authority.

Now, speaking more particularly about the power bill, the effect of some of the amendments suggested by the departments is to restrict the city's power project to the region adjacent to its aqueduct system. The bill as introduced would allow the city to go outside of that region to the north into what is known as the Mono country and to the west into what is known as the Kern River country; but the two departments, by some of the amendments proposed by them, would restrict the city to the region or drainage area tapped by the aqueduct and the territory traversed by the aqueduct on its way south to Los Angeles. As I say, we accepted those amendments, intending, so far as our scheme might assume a broader scope, to take advantage, if possible, of any general acts that might be passed hereafter.

I might state this, Mr. Chairman, which I think is quite important, to show you how far this project has progressed, the total possible development of power within the region to which the city is restricted by the bill, as amended, is estimated——

The CHAIRMAN (interposing). That is, the act of June 30, 1906.

Mr. MATHEWS. I refer to Senate bill 4023, now under consideration—is estimated at 245,450 horsepower. Of that grand total, 136,000 horsepower, or something like 55 per cent, will be developed from the aqueduct flow itself. That is, the city has spent its millions in building this water system and has diverted the water from streams in the Owens River Basin, and proposes, along the line of the aqueduct as it goes south, to take advantage of falls here and there for the purpose of developing power, so that the power development to the extent named—that is, 136,000 horsepower out of a total of 245,450 horsepower possible within the region covered—will be derived from the aqueduct flow itself, the only thing being needed is rights of way along the line of the aqueduct, in order that we may properly develop and transmit this power; 35 per cent additional of the total of 245,450 horsepower would be on lands adjacent to Owens River

which the city of Los Angeles acquired and paid for under the law which the chairman has referred to; that is, the act of June 30, 1906.

Mr. SCOTT. What do you mean by 245,000 horsepower? In what period of time would you develop that?

Mr. MATHEWS. What I mean by that is, taking the streams within the region, and taking the aqueduct itself, and taking proper machinery and proper installation, those streams and the aqueduct will produce economically a total of 245,450 horsepower; and of that total, 136,000 horsepower, or about 55 per cent, pertains to the aqueduct flow itself; and, as I just started to state, 35 per cent, approximately, will be on lands adjacent to Owens River which the Government under the act of 1906 conveyed to the city of Los Angeles at a price of $1.25 per acre. In other words, over 90 per cent of the total power development within the region covered by the bill as amended will be either along the aqueduct itself, which is the creation of the city, or on lands along Owens River, which the Government itself has ceded to the city at $1.25 an acre pursuant to the act of 1906.

Mr. TAYLOR. Do you desire that enlarged upon now or what was your thought about that?

Mr. MATHEWS. Practically the only enlargement is within the limits of 10 per cent of the total, with the rights of way for transmission purposes.

Mr. TAYLOR. Have you given yourself credit for the growth somewhat of the city? Are you building for the future, or are you confining yourself to the limit of the present time; in other words, are we legislating now so it will be comprehensive enough for 50 years from now or will you have to come back within two or three years to get some additional legislation?

Mr. MATHEWS. We may have to come back. We did have our bill broader, as I stated, covering the country to the north and to the west in adjacent regions.

Mr. TAYLOR. Why did they confine you or restrict your territory?

Mr. MATHEWS. There are in each of those regions power activities under the control of companies and the departments thought we should, for the present, avoid conflicts with those companies, and, in order to get our bill through, we readily acquiesced in that program. Then we thought probably the general legislation which was brewing would evolve some scheme we could use in the future.

Mr. TAYLOR. You mean the waterpower bill?

Mr. MATHEWS. Yes, sir.

Mr. TAYLOR. Let me ask you, Mr. Mathews, what is your business, and whom do you represent, and in what capacity do you appear before the committee?

Mr. MATHEWS. I might say that when the aqueduct project was originated, I was the corporation counsel of the city of Los Angeles, and held the position for three terms. The city retained me in its service upon the expiration of my term, which was in 1907, in connection with these particular projects, and nothing else, and I have been in the service of the city as special attorney and as corporation counsel for 18 years, devoting myself to water and power matters.

Mr. TAYLOR. And you are in that capacity now?

Mr. MATHEWS. That is my capacity now; that is, as special counsel. I also had charge for the city, under a salary, not a commission, of

raising all the money that it has raised for its water and power projects, amounting to something over $30,000,000. So that, while I have been an attorney all along, my life has been in this work for the city of Los Angeles, my work originating, however, at a time when I was an official of the city some 12 years ago.

I was, as city attorney, present and had very much to do with the presentation before the committee in 1906 of the original right-of-way bill, so there are some palliating circumstances, Mr. Taylor, to my present situation as an attorney.

Mr. TAYLOR. Some of us who are on the water power committee know about your connection, but it does not appear in the the record, and I thought this committee ought to know in what capacity you were appearing.

Mr. MATHEWS. I thank you for the privilege.

Mr. OSBORNE. I will state, Mr. Chairman, that Mr. Mathews has been representing the city in this water matter from the begining, and the city only.

Mr. SINNOTT. I would like to ask a question. Who gave you permission to depart from your map of definite location?

Mr. MATHEWS. No one, particularly; but I might state that the efforts to get approval of changes developed the fact, probably arising in the suggestion of some department official, that when we got through we might find some way of putting our revised maps on record and having them approved either under some general legislation or in some other way. I might say that the country we traversed is largely barren or desert country, where the inhabitants are about as scarce as you could imagine.

Mr. SINNOTT. Your changed line is on both forest reserve and public land?

Mr. MATHEWS. Yes.

Mr. SINNOTT. And both those departments have acquiesced, I assume?

Mr. MATHEWS. Yes. In the case of the Forest Service we, of course, went through the form of getting their usual permit. We had some way of working there, but in the Department of the Interior, or so far as they were asked to act under general law, we found the hard and fast law gave us no relief——

Mr. SINNOTT (interposing). They had no authority to acquiesce in your changes?

Mr. MATHEWS. And, as I say, this bill has been before the department and it seems to be satisfactory to them with the amendments they have proposed. Now, there is this additional point. The bill as introduced in both Houses closes with the third section thereof, so called. That section limits the city in regard to the disposal of power. It provides that the city may not sell its power to an individual or private corporation for resale. In the act of 1906 there was a similar limitation pertaining solely to water, and when this bill was formulated for introduction, following the example of that measure, a corresponding limitation was inserted as regards power. That fact raised quite a row in Los Angeles, so far as the power companies were concerned, and I understand it reached the committee here. I might state this, if you will permit me——

Mr. TAYLOR (interposing). Do you mean this committee or the Senate committee?

Mr. MATHEWS. Both, I think.

Mr. TAYLOR. I did not know about that. It did not reach me, at any rate.

Mr. MATHEWS. Do you know about that?

Mr. OSBORNE. I do not. I think representations were probably made to the committee, but I have no personal knowledge.

Mr. MATHEWS. I think I will be able to clear up this whole thing. The city of Los Angeles is striving to bring about, and has negotiations pending looking to, the acquisition of the distributing systems of the larger power company in Los Angeles, under a contract providing for the disposal of power back and forth between the city and the company as might be found necessary or desirable. It has been found that that limitation in the bill, absolutely prohibiting the city from selling any power to any individual or company, for resale, would stand in the way of that policy. I understand there would be opposition to the bill here if I insisted, or if Mr. Osborne insisted, on having the bill remain in its original form as regards section 3, and we have concluded, so far as we are concerned, in order to avoid difficulty and give the bill the best possible chance to get through, that that section might be eliminated, the city being content to handle the matter of selling electric power under its charter, which provides that the city may not sell any power it controls to any individual or private corporation for resale except with the assent of two-thirds of the voters of the city. So, in order to keep faith and with the full understanding of my own people, I am perfectly willing that that paragraph, which is section 3 of the original Senate and House bills and section 4 of the Senate bill 4023 as amended and passed by the Senate, may be eliminated.

Mr. TAYLOR. You do feel, however, that it is an unwarranted restriction really upon the city, and it would be better if it was not there?

Mr. MATHEWS. It has created difficulty, and I think it is better to leave the matter to be controlled by the charter, which I have here, and which contains the restriction which the people themselves have imposed. Besides, as I state, it is somewhat in the way of the program of the city for the acquisition of the utilities in the city owned by the private companies, which program will include the exchange of power back and forth between the city and the owners of those utilities in connection with the purchase by the city of their properties. As I stated, in the original act there was imposed a restriction of that kind on water, but nothing on power.

Mr. CRAMTON. May I ask briefly the effect of the section 3 which you propose to eliminate? If it remains in, what is the effect of it—to restrict the power of your city to sell power or to extend it?

Mr. MATHEWS. To sell.

Mr. CRAMTON. Does it restrict the power of Los Angeles to sell?

Mr. MATHEWS. Yes; to sell power.

Mr. CRAMTON. Then if you eliminate section 3 you enlarge the power of the city?

Mr. MATHEWS. That is true from the standpoint of the Govern-

ment. As I stated, in the original act of 1906 we had no such restriction on power, and this would put us back where the act itself left us, so far as the Government is concerned. Besides it has been concluded, in view of the fact that the charter contemplates that electric power of the city may be sold to the companies for resale with the assent of two-thirds of the voters, it would be better, first, to let the bill be freed of this absolute limitation and of the opposition it has aroused and let the charter itself control the subject.

Mr. CRAMTON. So the private opposition to the measure was based on the fear that the city would not sell power rather than a fear that they would sell power?

Mr. MATHEWS. Absolutely.

Mr. CRAMTON. In other words, some private corporation wants to buy power from the city?

Mr. MATHEWS. Absolutely; and also there is the well-grounded and just apprehension that if we insisted on that limitation we might not be able to carry out our own plan of acquiring these utilities, it being necessary, if we acquire them, that we at least have an arrangement with them for a limited period for emergency purposes and for the disposal of surplus power and for cooperative purposes where the utilities are serving the same region.

I took up with Senator Johnson, who had charge of the Los Angeles bill in the Senate, the matter of the elimination of that section, and it was agreeable to him if desired by Los Angeles. In view of the fact that the project covered by the bill is largely an old project that has been prosecuted along the lines contemplated by the act of 1906, it occurred to us that the committee would probably sanction our plan of freeing the bill from that closing section, section 3. You will notice in the act of 1906, if you have it there, that the corresponding limitation applied only to water.

Mr. SINNOTT. Section 4 is the closing section of the bill.

Mr. LA FOLLETTE. Section 6, is it not?

Mr. MATHEWS. Section 6 is the section which is amended. Does it not say in section 3 that section 6 of the act entitled and approved, etc., is hereby amended to read as follows?

The CHAIRMAN. Do you want the original act, Mr. Mathews?

Mr. MATHEWS. No; I am quite familiar with it, Mr. Ferris, and I think you will find in section 6 that the limitation pertains solely to water.

The CHAIRMAN. Yes. It provides—

That the city of Los Angeles is prohibited from ever selling or letting to any corporation or individual, except a municipality, the right for such corporation or individual to sell or sublet the water sold or given to it or him by the city.

That is the limitation you want to get rid of?

Mr. MATHEWS. No; that limitation is in the act as regards water. We want to leave the act alone.

The CHAIRMAN. As to water?

Mr. MATHEWS. Yes.

The CHAIRMAN. But as to power?

Mr. MATHEWS. The limitation of the act does not apply to power. The bill now pending before the committee, which is for the purpose of extending the provisions of the act of 1906, applies a similar limitation to power.

Mr. TAYLOR. And you do not want that limitation?

Mr. MATHEWS. We wish to recede from that and to have such limitation on the right of the city to sell power eliminated from the bill.

The CHAIRMAN. Is that also agreeable to the Interior and the Agricultural Departments? Have they recommended as to that particular phase of the situation?

Mr. MATHEWS. No; their recommendations cover other points.

The CHAIRMAN. Has that been submitted to them at all?

Mr. MATHEWS. I do not know.

The CHAIRMAN. Have you talked to them about it yourself?

Mr. MATHEWS. No.

The CHAIRMAN. You do not know their views as to that?

Mr. MATHEWS. No; but I assume that in view of the fact that they have limited by their own amendments our scheme to the region of the aqueduct itself and kept us out of adjacent regions, and in view of the fact that our possible power development is largely either on land we acquired under the act of 1906 or from the flow of the aqueduct itself—that is, within about 7 per cent of the total possible power development——

Mr. TAYLOR (interposing). In that view of the matter it would not hardly be expected they would want to confine you further.

Mr. MATHEWS. No.

Mr. TAYLOR. It is your own affair and your own property?

Mr. MATHEWS. Yes. Their main concern, I think, was to keep us out of the adjacent regions and to keep us within the territory pertaining to the aqueduct system.

Mr. TAYLOR. And having done that they would really have no further concern about limiting your use of the power or how you handle it?

Mr. MATHEWS. I think that is true, Mr. Taylor. The remaining 7 or 8 per cent of open opportunities are on little streams which are within this same drainage region and are naturally related to our project.

Mr. TAYLOR. Are any of these private concerns here opposing this matter?

Mr. MATHEWS. No; I think not. They would have been if I had not stated that I would ask the committee to eliminate section 3 of the bill, and I assumed they had sent lots of documents here—telegrams and protests and representations.

Mr. TAYLOR. The chairman may have received them; I do not know.

The CHAIRMAN. We had a good deal of matter of that sort last year.

Mr. MATHEWS. You will remember, Mr. Ferris, it was about a year ago when I was here.

The CHAIRMAN. I think we had a good deal of telegrams and noise about it at that time, but I do not recall that we have had anything recently. I have been away and the Clerk tells me we have had nothing this year.

Mr. MATHEWS. I have had direct contract with them, and they flooded the Senate committee with telegrams of that kind.

The CHAIRMAN. They did the same thing with us last year.

Mr. CRAMTON. Do you mind, Mr. Mathews, if you have not already done so, stating what concerns those are that were active in the matter?

Mr. MATHEWS. You mean the power concerns?

Mr. CRAMTON. Yes.

Mr. MATHEWS. I have not seen the papers they have filed.

Mr. CRAMTON. I am not referring to them, but the ones you have come in contact with and with whom you have made an agreement.

Mr. MATHEWS. The Los Angeles Gas & Electric Corporation and the Southern California Edison Co., which are the only two corporations engaged in the power business operating within the city.

The CHAIRMAN. Does that conclude your statement?

Mr. MATHEWS. I think so.

The CHAIRMAN. Does any member of the committee desire to ask any questions?

Mr. LA FOLLETTE. I want to inquire if the elimination of section 3 does not also do away with the limitation on the time in which you have got to complete your work?

Mr. MATHEWS. No; Mr. La Follette; they are entirely independent. We are given under this bill until December 31, 1922, in which to select the rights of way we require.

Mr. LA FOLLETTE. Section 3 as amended reads:

That if any power or electric works or structure to be used in connection therewith shall not be completed within five years after approval of the map or maps of rights of way for such works or structure as herein provided, or within such additional time as the Secretary of the Interior shall, in his discretion, grant, then such rights herein granted shall be forfeited as to any uncompleted portion of such works or structure to the extent that the same is not completed at the date of the forfeiture.

That is a part of your amendment now to section 3.

Mr. MATHEWS. Let me make a correction. The bill as it started in the Senate and in the House had a section 3, which was the closing section and related to the amendment of section 6 of the original act; but I find the Senate bill, as it has taken final form, has changed the section numbers, and that section 4 of the Senate bill as amended and passed corresponds to section 3 of the original Senate and House bills. When I ask you to eliminate section 3 I am referring to the closing section of the Senate bill as amended and passed.

Mr. LA FOLLETTE. Which is really section 4?

Mr. MATHEWS. Yes; section 4.

Mr. LA FOLLETTE. That is the reason I could not understand the matter a while ago, and that is why I asked this question.

Mr. CRAMTON. May I make this suggestion, Mr. Mathews, that in connection with your remarks you insert the particular language that you propose to have eliminated from the bill?

Mr. MATHEWS. Yes, sir; I will.

Mr. CRAMTON. To avoid confusion about the section number, etc.

Mr. MATHEWS. The portion of Senate bill 4023 now under consideration as a substitute for H. R. 10524 is section 4 of such Senate bill as amended and passed in the Senate, and being as follows:

SEC. 4. That section 6 of the act entitled and approved as aforesaid be, and the same is hereby, amended to read as follows:

"SEC. 6. That the city of Los Angeles is prohibited from ever selling or letting to any corporation or individual, except a municipality, the right for such cor-

poration or individual to sell or sublet the water or the power generated for lighting, telephone, telegraph, or other purposes, sold or given to it or him by the city."

Mr. TAYLOR. Mr. Mathews, how much time does this give you to complete everything?

Mr. MATHEWS. It gives us until December 31, 1922.

Mr. TAYLOR. I know that, but is that time enough? Suppose some enterprising genius institutes some litigation against you and holds you up for five or six years in the courts, which they can very readily do, if you do not submit to what they want. Does this give you sufficient time? Have you any sliding scale that will discourage that kind of enterprise?

Mr. MATHEWS. That is an experience we have been going through for 10 years.

Mr. TAYLOR. Of course, and it is an experience every city goes through, and it seems to me you ought not to be modest in asking Congress to protect against offering a premium or bait for that kind of covert—I won't call it blackmail, but interference with legitimate development.

Mr. MATHEWS. We have been pretty successful in standing them off, because we have got accustomed to dealing with them.

Mr. CRAMTON. You went 80 miles on territory that had not been granted you, and you have done fairly well.

Mr. MATHEWS. We have had the utmost confidence in Congress.

Mr. TAYLOR. The Government of the United States for 100 years has allowed people to go and build ditches upon public domain. If we had never built any ditches in Colorado unless we got permission of the Interior Department, we would not have any State and every man in the State who has had anything to do with the development of it has gone across the public domain with a ditch. I have myself all the time, for 30 or 40 years, nearly, so that is violating no rights.

Mr. MATHEWS. No.

Mr. TAYLOR. There is an express permission and invitation.

Mr. MATHEWS. I might say this, gentlemen, we are building right now a second power plant on land which we do not own, because we have been put under the pressure of the Government policy to develop our hydroelectric power just as rapidly as possible, and we are to open bids on the 21st of this month for something like three or four hundred thousand dollars worth of steel for a second plant along the aqueduct. The pressure there has been sufficient to induce us to go ahead, counting on Congress taking care of us, even though we did construct our project on land which we did not own.

So your support is asked in behalf of a project that is going ahead, not a project that we hope to start. I see Maj. Sever, of the Army, here, who knows our project well, and, if it is necessary, I think he could say a word for us.

Mr. SINNOTT. What has become of your rights under your maps filed for the right of way which you did not use? Has that automatically reverted to the Government?

Mr. MATHEWS. Yes; it will under this legislation, as I understand it.

Mr. SINNOTT. Then the declaration of the loss of such right is not necessary, or will that require any action on the part of the city?

Mr. MATHEWS. I think not. I think the act itself, the old act, provides for loss of rights that we do not use, and those rights not only have not been used for five years since the aqueduct was completed but they will never be used.

Mr. SINNOTT. You declare in section 2—

> The approval by the Secretary of the Interior of any amended map or maps showing changes of location of said rights of way shall operate as an abandonment ipso facto by the city of Los Angeles.

The question occurred to me whether that was sufficient or whether it would require some relief action on the part of the city.

Mr. MATHEWS. I think that would take care of itself. It is a matter of rather slight importance. As I say, we go through a barren, desert, and mountainous region, and property rights of any value or extent are not likely to spring up. Where we got into any inhabited region we found property in private ownership and had to deal with the people; but, so far as the Government was concerned, we were out in a bleak, desert, or mountainous country, and there was nothing of value.

Mr. SINNOTT. No liability to find oil?

Mr. MATHEWS. No; they have tried it.

Mr. SINNOTT. That is not in the oil region?

Mr. MATHEWS. No.

The CHAIRMAN. How far do you carry the water?

Mr. MATHEWS. It is about 240 miles from the point of diversion to the city.

The CHAIRMAN. And to what extent have you departed from the rights of way originally given?

Mr. MATHEWS. About one-third of that extent.

The CHAIRMAN. And that was through a barren, desert region not occupied?

Mr. MATHEWS. Not occupied.

The CHAIRMAN. Have you any controversies or suits with private parties whose land you have taken?

Mr. MATHEWS. None at all. I might say that the construction of the Los Angeles aqueduct took about seven years, and in building it we had only one suit in condemnation, and that was not tried. It covered a piece of private property. It was not tried, but was adjusted. We virtually had no litigation at all.

The CHAIRMAN. And this aqueduct has been built and is in operation?

Mr. MATHEWS. Yes, sir.

The CHAIRMAN. And what you want is confirmation of this departure from the original right of way?

Mr. MATHEWS. And the additional power.

The CHAIRMAN. And the additional authority to sell the power?

Mr. MATHEWS. And the additional legislation in behalf of our power project.

The CHAIRMAN. Which is required before you can go on land not covered by the original act?

Mr. MATHEWS. Yes.

The CHAIRMAN. You, of course, have read this report of April 10, 1918, from the Interior Department and of April 11, 1918, from the Agricultural Department?

Mr. MATHEWS. Yes.

The CHAIRMAN. They set out a lot of amendments?

Mr. MATHEWS. Those are all incorporated in the Senate bill, and we accepted them.

The CHAIRMAN. You have examined them carefully?

Mr. MATHEWS. I knew of them at the time.

The CHAIRMAN. And they were all incorporated and agreed to?

Mr. MATHEWS. Yes.

The CHAIRMAN. So that it is your understanding now that this legislation as it stands and as it passed the Senate has the full approval of the Secretary of Agriculture and the Secretary of the Interior?

Mr. MATHEWS. It conforms fully with their reports.

Mr. TAYLOR. But you want to make some little modification of that now, do you not?

Mr. MATHEWS. Yes.

Mr. TAYLOR. And you do not know whether they approve that modification yet or not?

Mr. MATHEWS. I have not approached them about it.

Mr. TAYLOR. Why do you not go and see them?

The CHAIRMAN. He has only been here a day or two.

Mr. TAYLOR. Or Capt. Osburne might go and get specific approval of the amendment of the Senate bill which you are asking this committee to make.

Mr. ELSTON. What is the nature of the amendment? Is it anything that would touch their interests at all?

Mr. TAYLOR. I do not think so, but it might answer some questions raised on the floor.

Mr. ELSTON. What is the nature of the amendment?

Mr. MATHEWS. The nature of the amendment is this: The bill as introduced in both Houses, in the closing section, laid a limitation on the right of the city to sell power to individuals or corporations; forbidding it. In the act of 1906, which this bill purports to amend, there was no such limitation laid by Congress upon power, but there was as to water, and the point made is that this limitation sought to be imposed as regards power has raised a local controversy which seemed to us to threaten serious difficulty in carrying out our plans for establishing our municipal electric distributing system, and we preferred and concluded, so far as we were concerned, to leave it out.

Mr. ELSTON. Was there any recommendation in the report of either the Secretary of the Interior or the Secretary of Agriculture touching the limitations on the disposition of the power at all or did they concern themselves more with the rights of way over the land and the nature of the land to be traversed?

Mr. MATHEWS. There was no such recommendation in their reports, but they restricted us to the region of territory which was incident to our aqueduct project.

The CHAIRMAN. Of course, both reports do say that in the event the general waterpower bill becomes a law, they think that will probably take care of you. What have you to say as to that, Mr. Mathews? You know we have a waterpower bill in conference, which has passed both the House and the Senate and has been laid away for some time. No one knows whether we can finally agree on it or not or

whether it will be finally passed, but it is hoped that it will be passed.

Mr. MATHEWS. There is always this point about that. As I have said, this project is largely based upon our own property which we acquired from the Government under the act of June 30, 1906, and it did seem to me that really it would be unfair to the city to impose on it the restrictions of new legislation when its project was an old one. What we need largely here is rights of way for transmission lines covering a distance of 260 miles. The power development is largely on our own property or along our own aqueduct.

Mr. ELSTON. You mean by that, Mr. Mathews, that if you are not granted the right to develop the power and this water supply, you have the ownership right in such a way that no one else can develop them, and they will either lie dormant forever or they must be developed by you?

Mr. MATHEWS. That is practically true of 90 per cent of the total power development of the whole region.

Mr. ELSTON. Then you are not asking any additional power except the right to use this water power, because if you do not use it no one else can; that is, up to 90 per cent of the water power?

Mr. MATHEWS. That is true.

Mr. ELSTON. So you are not asking for something which otherwise might be taken up by others?

Mr. MATHEWS. That is true as to the greater part of the proposed power development, and we have been building this project for seven or eight years.

The CHAIRMAN. And you say the city has expended about $30,000,000?

Mr. MATHEWS. The city has expended on power and water over $30,000,000—$24,500,000 on water and about $8,000,000 on power.

The CHAIRMAN. Has any part of this been leased or sublet to private concerns?

Mr. MATHEWS. No; not a bit. The city is under the same limitation under its charter as regards leasing as it is regarding the sale of power.

The CHAIRMAN. What shall we say to Congress when we permit you to sell this power to private concerns and private corporations? What is the answer to there being some objection to that?

Mr. MATHEWS. The objection was the other way.

The CHAIRMAN. I mean on the part of the Government. Where the Government gives valuable rights of way or permits for aqueducts to be built and large power possibilities to be developed over its lands and through its facilities and in its reservoirs, then if it is to be used by private concerns, the general public would be interested in it.

Mr. MATHEWS. Yes.

The CHAIRMAN. Now, what is the answer to that?

Mr. MATHEWS. Of course, this is a public utility municipally owned, and the other point is that this is an old project authorized by the Government 12 years ago, which we are striving to complete now, and by virtue of the action of Congress 12 years ago 90 per cent of the possible power is on lands or on the aqueduct which we absolutely control as a result of congressional action of 12 years ago.

Mr. OSBORNE. If you will permit me, I may suggest, in that connection, that the city charter of Los Angeles provides that the city shall dispose of no power or water to be sold by other individuals or corporations without a two-thirds vote of the people, and that is an absolute impossibility to ever get.

The CHAIRMAN. Who supplies, for instance, the power for the lighting system there?

Mr. MATHEWS. The city supplies about three-eighths, I should say, and the companies about five-eighths of the city street lighting.

The CHAIRMAN. Who supplies the trolley cars with power?

Mr. MATHEWS. The companies.

The CHAIRMAN. Do they buy any of that power from the city?

Mr. MATHEWS. No.

The CHAIRMAN. A private company owns the lighting system and the trolley system, is that right?

Mr. MATHEWS. Yes; a private company owns the trolley system.

The CHAIRMAN. You have no public ownership of those facilities out there?

Mr. MATHEWS. No. The city street lighting is a matter of contract, as to the greater part of it, the city awarding a contract to the companies for that service.

The CHAIRMAN. With power furnished by the city?

Mr. MATHEWS. No; so far as the city furnishing the power is concerned, it furnishes its own power for its own system, and it is gradually extending its lighting system throughout the city.

The CHAIRMAN. They do, then, have municipal ownership of a part of the lighting?

Mr. MATHEWS. Yes; and we charge $50 a post to the city and the companies charge $75.

The CHAIRMAN. What per cent of it is operated by the city and what per cent by private concerns?

Mr. MATHEWS. I should say that, out of 5,500 lighting posts in the city, the municipality supplies 2,500.

The CHAIRMAN. Two thousand five hundred out of 5,000?

Mr. MATHEWS. Out of 5,500.

The CHAIRMAN. They own almost half of it, then?

Mr. MATHEWS. Yes, sir.

The CHAIRMAN. You do not sell power at all to tramways or trolleys?

Mr. MATHEWS. No, sir.

The CHAIRMAN. Where do they get power?

Mr. MATTHEWS. Under a private contract.

The CHAIRMAN. With what company?

Mr. MATHEWS. With the Southern California Edison Co.

The CHAIRMAN. I understood you to say that the whole region was taken up, or practically all of it, by the city project, or up to 90 per cent.

Mr. ELSTON. The Sierra Nevadas come between.

Mr. MATHEWS. You have the Sierra Nevada Range running north and south there, and we are on the east and they are on the west side. We are kept out of their region by the Senate bill as amended and passed.

The CHAIRMAN. Inasmuch as you are a going concern, and inasmuch as you have been a going concern for a number of years, and

inasmuch as you are using power, have your aqueduct built, and have already departed from your original rights of way, why can you not wait a little longer and see if the general power bill will not cover the situation for you? Have you any bonding proposition up that makes prompt action important? What is the reason for the haste or for this special bill independently of the general bill?

Mr. MATHEWS. The proposed general power bill will, I fear, make it practically impossible for the city of Los Angeles to carry out its hydroelectric plans, if it is required to depend on the relief afforded by that bill. That bill provides for limited leases or licenses, which would be utterly inconsistent with a municipal power project, which is perpetual. I seriously doubt whether the people would, in the face of the opposition and specious arguments of the interests which fight municipal ownership, give the necessary two-thirds vote for the bonds we need to build our power works. A strictly public system, such as ours, must have perpetual rights of way.

We are going ahead with our power development; we are about to build an additional plant costing nearly $1,500,000. We are under tremendous pressure, not only from the local people but from the Government itself, to develop this power. The local shipyards use our power, and their bills amount to many thousands of dollars per month.

The CHAIRMAN. That is, to the Government?

Mr. MATHEWS. To people who are under Government contracts. They are under the ordinary Emergency Fleet Corporation contracts. Then we supply the submarine base and all the Government activities, so far as we can reach them. Then we supply the city of Pasadena all of its power for its municipal system.

The CHAIRMAN. The failure to get this bill through would not stop the building of this project?

Mr. MATHEWS. There is a practical difficulty about voting the bonds which we require. We want to go to the people with a bond issue, and there would be great difficulty in voting bonds for a project where its location or rights of way are uncertain or of expressly limited duration.

The CHAIRMAN. Is that a matter that is in issue—that is, that the city does not at present own in fee the rights of way?

Mr. MATHEWS. Yes, sir; and every objection that can be urged against municipal ownership or the municipal power project is taken advantage of in order to prevent the city's getting the necessary two-thirds vote required for authorizing bonds.

The CHAIRMAN. Are the private companies doing that?

Mr. MATHEWS. One of them is; then we have that class of people who are constantly opposing the efforts of the city to establish publicly owned utilities.

Mr. LA FOLLETTE. Mr. Chairman, can you suggest under what section of the general power bill a condition of this kind could be met and acted upon?

The CHAIRMAN. I think so, although I do not have the bill before me. The Government could readily issue them a lease.

Mr. LA FOLLETTE. I do not think there is anything in that bill that would cover this case or that would give them power to deal with this kind of proposition.

The CHAIRMAN. I think they could lease that land that they have gone on without authority and make their rights secure. Under the general powers in that bill lease permits could be issued and they could proceed.

Mr. MATHEWS. We think that the Government ought to allow us——

The CHAIRMAN (interposing). You think that because you had those rights granted to you 12 years ago some of the obligations imposed by that bill should not be imposed upon you. I understand that that is the objection, but that does not render it impossible.

Mr. MATHEWS. Especially since the departments have established limits and built a fence around us so as to confine us to the project of 12 years ago.

The CHAIRMAN. You have departed somewhat from your project of 12 years ago, and as to that part it ought, perhaps, to come under the new bill. As to your activities that were ultra vires of the act of 1906, those are matters, of course, for the committee and Congress.

Mr. MATHEWS. That departure did not affect the power project. It meant that instead of the aqueduct being built here along the foot of the mountain, it should be built perhaps a quarter of a mile lower down or a quarter of a mile higher up in the mountain. It did not affect the matter of power at all.

Mr. SCOTT. Has the city at any time given authority to sell the water power?

Mr. MATHEWS. We must have the consent of the people by a two-thirds vote in order to authorize the sale of its power to private parties for resale.

Mr. SCOTT. That is the only condition upon which you could sell the water power?

Miss RANKIN. If you want to resell it.

Mr. SCOTT. This has nothing to do with that proposition. What I want to know is what is to prevent the city of Los Angeles now from selling 200,000 feet of power or water to a private corporation? Is there anything in the nature of your project that would prevent them from doing it, and I mean by that physically?

Mr. MATHEWS. No, sir; I think not, apart from the limitation in the charter itself.

Mr. SCOTT. There is no limitation upon that. Under this restriction here the city of Los Angeles could sell all of her horsepower or water power to a private corporation, and that private corporation could use it to generate power and could then sell the hydroelectric power. In other words, you want to restrict the resale to hydroelectric power?

Mr. MATHEWS. The city charter prohibits the sale of water or power to private companies for resale, or the leasing of water or water rights for the purpose of generating power, without the consent of two-thirds of the voters.

Mr. SCOTT. You could sell all the horsepower you have as water power to a private corporation, and they could generate hydroelectric power from that water power and resell it? You could sell the water power to a private corporation, and they could then generate hydroelectric power and sell that hydroelectric power?

Mr. MATHEWS. Not under our charter.

Mr. SCOTT. You could under this bill.

Mr. MATHEWS. The charter does not allow the city to either sell power or water to private parties for resale, or to lease its water for the generation of power without the consent of two-thirds of the people.

Mr. CRAMTON. You mentioned two corporations there with whom you had come to an understanding about that section 3; has the city heretofore been furnishing power to either of those corporations?

Mr. MATHEWS. We have to the Southern California Edison Co. We have what we call a proposed-purchase contract, covering the Southern California Edison Co., in which the city proposes to buy their system at a price which is fixed. That requires a voting of bonds by the people. Preliminary to the voting of the bonds and authorizing the transaction, the city and company have entered into what is called an operating agreement under which the company takes our surplus power and distributes it to the consumers in the city for our account. The company takes out their operating charges, interest, depreciation, and other fixed charges, and pays to the city the net balance of the revenue from the distribution of such power. The electric power which is turned over to the company is the power that is left over after supplying our own consumers and furnishing the power required by the city of Pasadena for distribution by the municipality to its consumers. That is only an operating agreement, which expires on the 1st of July next and we had hoped, during its life, to have the bonds voted which would have enabled us to purchase the distributing system of the company within the city. However, the war has made bonds unpopular, and we have not seen an opening for having the people to vote the large amount of bonds required to carry out that transaction. An effort is being made to consummate that deal. Meanwhile the company has taken our surplus power and has distributed it for our account and benefit.

Mr. SINNOTT. You could not sell that same power?

Mr. MATHEWS. No, sir. We have no transactions whatever with the other company.

STATEMENT OF HON. HENRY Z. OSBORNE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA.

Mr. OSBORNE. I have only a few words to say, Mr. Chairman. Since I talked with you sometime ago in regard to this matter about the general bill, I have examined the general bill very thoroughly and I am unable to ascertain that it covers this case at all. I am unable to see that we could get any relief in the general bill, as stated by Mr. La Follette.

The CHAIRMAN. Is there not general power there to lease rights of way or water developed or undeveloped generally?

Mr. TAYLOR. The Government would have authority to put your whole proposition on a lease basis, because you use 80 miles of the public domain. That is where you come in on it.

The CHAIRMAN. Irrespective of what it does, it does give the power to make leases. There is no question about that. It might not be what you want.

Mr. OSBORNE. I would say it is not what we want and it is not what we ought to have.

The CHAIRMAN. That may be.

Mr. OSBORNE. We have instituted in Los Angeles one of the greatest and most far-reaching municipally-owned public utilities of any place in the United States. We have gone up in the mountains and we have built an acqueduct capable of carrying 20,000 inches of water, a river in itself. It is lined with concrete from one end to the other, 240 miles. Fifty miles of this project go through solid rock tunnels, lined with concrete. It is one of the greatest aqueduct projects ever conceived in the history of the world. There are three or four that compare with it. Of course, the Ashokam Aqueduct of New York City is a vastly more expensive project, but not so long and does not go through the difficult country that this does. There is a project in western Australia of 360 miles, where they bring a less amount of water through pipes across the desert the entire distance. This is a great water construction. The entire aqueduct system of ancient Rome is not so great as this aqueduct that the people of Los Angeles have built, and the only thing that compares with it in length is the aqueduct system that was constructed by the Inca Indians in the Andes before the white people ever saw America. That primitive aqueduct was of a greater length than this, and through a more difficult country.

Now, gentlemen, having expended over $32,000,000 on this aqueduct and proposing to spend many millions more if we are accorded these rights of way through this desert county, we feel that we are entitled to them. I know we have the sympathy of your committee in this matter, and I wanted to present in brief the character of this enterprise. It is a very great enterprise, which we of Los Angeles are proud of; which the people of the State of California are proud of, and which the people of the United States ought to be proud of. We ask your kind and favorable consideration of this bill.

Mr. CRAMPTON. Can you give the valuation of Los Angeles, approximately?

Mr. OSBORNE. The assessed valuation of the city is between five and six hundred million dollars.

Mr. MATHEWS. Between $500,000,000 and $600,000,000 for the city. Maj. Sever, who is here, has been out there.

The CHAIRMAN. Do you desire to be heard, Major?

Maj. SEVER. I was to have spoken on section 4, but as that has been withdrawn I do not consider I can give any further information.

Mr. TAYLOR. Has it been withdrawn?

The CHAIRMAN. So far as they are concerned.

Mr. TAYLOR. If any member objected to its being withdrawn, possibly the major might want to make the statement.

The CHAIRMAN. The committee will be glad to have you say a few words if you desire to do so. The fact that the proponents of the bill have withdrawn it does not necessarily mean that the committee on Congress will do so.

STATEMENT OF MAJ. JOHN F. SEVER, ENGINEER CORPS, UNITED STATES ARMY.

Maj. SEVER. Mr. Chairman, in the Army I was assigned to the tunnel section of the War Industries Board, under the civil direction of Mr. Darlington and under the military direction of Gen. Keller,

who has been succeeded by Gen. Taylor, and I was sent to the Pacific coast to investigate the possible shortage of electric power and to see what could be done to increase the power supply for war industries, war essentials, and public necessities. In my work I visited Los Angeles and found this condition, that there were large war contracts down there in the way of shipping and other matters. There were three companies supplying the needs of the municipality of Los Angeles—the Southern California Edison Co. and the Los Angeles Gas & Electric Corporation. I found that the War Industries Board had indicated to parties there that they should discontinue wasteful power holding, and that they should work together to supply the needs of the community. The city of Los Angeles and the Southern California Edison Co. were electrically tied together, and the city of Los Angeles was supplied with a certain amount of hydroelectric power from the Southern California electric system. That is a very desirable thing to maintain, because the hydroelectric power is usually cheaper than the oil or the gas generated power of the other two companies, and the endeavor was made to utilize this hydroelectric power to the full. Later in the fall this wasteful power holding was stopped through the activity of the power section of the War Industries Board, and it was hoped that all the hydroelectric power in that territory would be used on the distribution system of the Edison Co., which was the largest one there.

The result of my inspection leads me to the belief that this section 4 of the bill is undesirable from the most economical utilization of electric power.

The CHAIRMAN. That is the section which restrains them from selling?

Maj. SEVER. Yes. We have found in all our work that it is very necessary and desirable to interconnect all power systems so as to make available the diversities of the different systems and to make available all the hydroelectric power in these interconnected systems. The desire of the city of Los Angeles to establish this No. 2 plant is a very commendable one, because it will make use of the aqueduct water twice, and give them practically twice the amount of power for the use of the district in which Los Angeles is situated. Then the other companies, the Los Angeles Gas & Electric Corporation and the Southern California Edison Co., can use their power for the additional industrial developments in and about Los Angeles. The city has its operating agreement, which ends June 30, 1919. It is a purchase proposition, to secure the Southern California Edison Co.'s distribution system under either a partial-payment basis or a single-payment basis, either one of which is desirable. But if this clause here, section 4, goes through, it will prevent the very desirable electrical interconnection of the systems and the making available the utilization of all the electric power in the best way in that territory, and it is for that purpose that I came, as representing the power section of the War Industries Board, based on all our experience, to urge that this section be not approved.

The CHAIRMAN. Does anyone desire to ask the major any questions?

Mr. SCOTT. I understand the major's position is that it is desirable that the city of Los Angeles have the power to sell for resale and distribution. Am I correct?

Maj. SEVER. Yes, sir.

Mr. SCOTT. I also understand from Mr. Matthews that the charter of the city of Los Angeles prevents that being done except upon a vote of two-thirds of the citizens. Am I correct in that?

Mr. MATTHEWS. That is correct.

Mr. SCOTT. And we are asked now to transfer to the city of Los Angeles that power and have it tied up under a charter of that kind. May it not be a good thing when we are doing this to transfer that power or approval upon condition that it be released from this obnoxious provision of the charter of Los Angeles?

Mr. ELSTON. That would require the sanction of the people of Los Angeles.

Mr. SCOTT. It would probably hasten the two-thirds majority vote of the people of Los Angeles.

The CHAIRMAN. Do you think it would be desirable to base any project upon such a cancellation of their charter given under their laws?

Mr. SCOTT. I understand the argument urged by the major is one that pertains not particularly to the city of Los Angeles but to the people of the United States, the General Government; for instance, the situation that existed during the last summer. It is a matter of general public interest, as I understand it, that this power be in such condition as not to be tied up. It does no good to eliminate section 4 so long as that condition remains in the charter and we turn it over subject to that charter condition.

The CHAIRMAN. They will have to work out their own salvation.

Mr. ELSTON. I understand section 4 is an absolute prohibition, while the provision of the charter is a mere limitation.

The CHAIRMAN. Will they give the power away? It is not an actual prohibition, but it is a slight prohibition.

Mr. ELSTON. That is, on your analysis there might be some way of getting around that repurchase proposition, of purchasing water and generating power and getting outside of the obvious theories of the prohibition, which I do not believe would receive that construction. I think it would require construction to prohibit the essential thing, which would prohibit this indirect means of avoiding it, which you say could be done.

The CHAIRMAN. If there are no further questions, the hearing will be closed. Thank you very much, gentlemen. Without objection, Capt. Osborne will be permitted to furnish any additional data he may desire to submit and have it printed as part of the hearing.

There are printed herewith a letter from Secretary Lane and one from Secretary Houston regarding this bill:

DEPARTMENT OF THE INTERIOR,
Washington, January 16, 1919.

MY DEAR MR. MATHEWS: I am in receipt of your communication dated January 15, 1919, wherein, on behalf of the city of Los Angeles, you ask whether this department will object to eliminating from S. 4023, a bill to supplement the grant made to the city of Los Angeles by act of June 30, 1906, the last section thereof, which prohibits the city from ever selling or letting to any corpora-

tion or individual, except a municipality, the right for such corporation or individual to sell or sublet the water or power generated. It is stated that the city is negotiating with one of the large power companies doing business in Los Angeles for the acquisition of the company's distributing plant and lines in the city, and that the company desires in the event of acceding to the city's plans to have the option of purchasing for a limited period at rates fixed by the State railroad commission, any surplus power the city may have available. It is further stated that at a hearing recently held before the House Committee on Public Lands, Maj. George Sever, representing the Power Division of the War Industries Board, urged the elimination of said section on the ground that the interconnection of electrical power systems is desirable for war purposes. It is also stated that the Department of Agriculture favors the elimination of the provision in question.

In view of the fact that the sale of the power, both to the power corporation and the public, is subject to regulation and control by the State Railroad Commission of California, thus affording protection to the consumer, and of the desirability of utilizing to the fullest extent the electric power generated, I have to advise you that I will interpose no objection to the elimination from the bill of the section described.

Cordially, yours,

FRANKLIN K. LANE.

Mr. W. B. MATHEWS,
Representing the city of Los Angeles,
Washington, D. C.

DEPARTMENT OF AGRICULTURE,
Washington, January 16, 1919.

Hon. SCOTT FERRIS,
United States House of Representatives.

DEAR SIR: Reference is made to your request of January 14 for a report on S. 4023.

On April 11, 1918, this department made report to the Senate Committee on Public Lands on this measure as it was presented to the Senate. In making this report the department suggested that certain amendments should be made to the bill. It is noted that these amendments have been adopted by the Senate. Since this report was made, the attention of the department has been called to the provisions of section 4 of the Senate bill which proposes to amend section 6 of the original act of June 30, 1906, in such a way as to prohibit the city of Los Angeles, "from ever selling or letting to any corporation or individual, except a municipality, the right for such corporation or individual to sell or sublet * * * the power generated for lighting, telephone, telegraph, or other purposes." In the judgment of the department this is an unnecessary restriction upon the freedom of action of the city to dispose of the power it may generate in accordance with the terms of its charter or the provisions of the laws of the State of California, and it is therefore recommended that this section be eliminated from the bill.

If there existed satisfactory general legislation under which the city could secure those rights of way which it desired for power development, the department would recommend that the proposed bill be confined in its scope to approval of those portions of the right of way now occupied and used, but which it is understood have not been constructed along the right of way as defined in the original act of June 30, 1906. Should a bill such as the general water-power measure which is now in conference be passed, there would be no need of enacting any special legislation to enable the city of Los Angeles to secure the rights of way which it requires for the completion of its power development plans. Since, however, the city would not obtain concessions under this measure inconsistent with the pending water-power bill, it does not appear that any good purpose would be advanced by subjecting it to such possible delay as may be encountered by general legislation. The Department, therefore, approves the passage of this bill if amended as suggested above.

Very truly, yours,

D. F. HOUSTON, *Secretary.*

There is printed herewith copy of a telegram received from city officials of Los Angeles.

WESTERN UNION TELEGRAM.

LOS ANGELES, CAL., *January 17, 1919.*

Hon. H. Z. OSBORNE,
Member Congress, Washington, D. C.

Strongly urge passage of bill amending act of June 30, 1906, in aid of Los Angeles water and power projects. Amendment required to validate aqueduct right of way where same departs from surveyed rights granted by original act. These departures have a range in most cases of but a few feet from the original surveyed line. In some instances the departure simply amounted to a straightening of the line by tunneling through mountains spurs instead of building around them. This proceeding shortened the line by many miles over the distance of 70 or 80 miles where these departures occurred. The route where these changes were made for economical reasons of construction is altogether over rough, barren desert mountains wholly uninhabited. Amendment also required to give city time to select final rights of way for power project now incomplete, but under active and immediate consideration of construction, and being necessary adjunct to complete city's power project as approved by our citizens in the several bond issues approved by them. Approximately 90 per cent of total power development in territory set forth in said Senate bill on departmental recommendation now controlled by city because it pertains either to aqueduct flow or to land and rights of way on Owens River and elsewhere granted to city under said act of 1906. Remaining 10 per cent on streams in Ownes drainage basin tributary to aqueduct supply and logically related to city's development plan, including storage facilities. City has been proceeding under the issuance of bonds to complete its power projects, and past experience has shown that city to obtain necessary two-thirds popular vote to authorize bonds must do so in face of corporate opposition to municipal ownership. Such opposition magnifies any defects in city's basic rights, and city absolutely requires definite and permanent rights of way to construct and maintain power works. City has gone ahead with project as one based on act of 1906, believing Government by amendment will grant extension of time or otherwise protect city, and has already spent over $8,000,000 thereon. City power project is perpetually inseparable from aqueduct and strictly for public benefit and not for profit. Therefore perpetual rights of way imperatively needed.

F. T. WOODMAN,
Mayor, City of Los Angeles.
HOWARD ROBERTSON,
President Board Public Service Commissioners.
WILLIAM MULLHOLLAND,
Chief Engineer Bureau Waterworks and Supply.
E. F. SCATTERGOOD,
Chief Electrical Engineer.
R. L. CRISWELL,
Chairman Public Service Committe, City Council

(Thereupon at 12.30 o'clock p. m. the committee adjourned.)

WATER SUPPLY OF LOS ANGELES, CALIFORNIA

HARVARD UNIVERSITY
JUN 21 1946
GRADUATE SCHOOL OF PUBLIC ADMINISTRATION

HEARING

BEFORE THE

COMMITTEE ON THE PUBLIC LANDS

HOUSE OF REPRESENTATIVES

SIXTY-FIFTH CONGRESS
THIRD SESSION

ON

S. 4023

A BILL GRANTING RIGHTS OF WAY OVER CERTAIN LANDS FOR THE WATER SUPPLY OF LOS ANGELES, CALIFORNIA

JANUARY 28, 1919

PART II

WASHINGTON
GOVERNMENT PRINTING OFFICE
1919

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COMMITTEE ON THE PUBLIC LANDS.

SIXTY-FIFTH CONGRESS.

THIRD SESSION.

SCOTT FERRIS, Oklahoma, *Chairman.*

EDWARD T. TAYLOR, Colorado.
JOHN E. RAKER, California.
CARL HAYDEN, Arizona.
DENVER S. CHURCH, California.
C. C. DILL, Washington.
JAMES H. MAYS, Utah.
JOHN N. TILLMAN, Arkansas.
HARRY L. GANDY, South Dakota.
JEFF: McLEMORE, Texas.
JAMES V. McCLINTIC, Oklahoma.
W. B. WALTON, New Mexico.

WILLIAM L. LA FOLLETTE, Washington.
NICHOLAS J. SINNOTT, Oregon.
ADDISON T. SMITH, Idaho.
LOUIS C. CRAMTON, Michigan.
CHARLES B. TIMBERLAKE, Colorado.
GEORGE C. SCOTT, Iowa.
JEANNETTE RANKIN, Montana.
JOHN A. ELSTON, California.
JAMES WICKERSHAM, Alaska.

JAY KEEGAN, *Clerk.*
N. P. SWEARINGEN, *Assistant Clerk.*

II

SOURCE UNKNOWN

WATER SUPPLY OF LOS ANGELES, CAL.

COMMITTEE ON THE PUBLIC LANDS,
HOUSE OF REPRESENTATIVES,
Tuesday, January 28, 1919.

The committee this day met, Hon. Scott Ferris (chairman) presiding.

Mr. RAKER. Mr. Chairman, Mr. Kettner is here, and I have maps and protests and letters sent directly to Mr. Kettner and myself, and received by Mr. Kettner and presented to me. Mr. Kettner is present and would like to make a statement.

Mr. KETTNER. I thank you very much, Mr. Chairman, for giving me this opportunity. I have received numerous telegrams from my constituents in Inyo County, and I have wired them to the effect that I was sure the committee would protect their rights. The committee from Los Angeles stated they were not asking anything that interfered with their rights, but my people say they have a great many things they want to show. I presume there is a controversy, as there always is, in these cases. They are very urgent, and I reseived three telegrams this morning requesting a hearing.

The CHAIRMAN. Do they purport to say just how it interferes with their rights?

Mr. KETTNER. No; at least I can not understand from the telegrams in what way it does interfere with their rights. I am in a position to sympathize with the city of Los Angeles, because San Diego is making the same kind of a fight, and from my reading of the papres I could not reach any conclusion, but Judge Raker, being a lawyer, perhaps has gone over them. The papers give reasons, do they not?

Mr. RAKER. I have not gone into the merits of the situation at all.

Mr. KETTNER. What I want to do is to protect my people and, at the same time, I want to be fair and just to the city of Los Angeles, and anything the committee will request or ask me to do, I am perfectly willing to do, but I must protect my people.

Mr. RAKER. The only thing I am asking is that this matter may be continued for 8 or 10 days and set for a hearing, and let those people come on, if they want to do so. They say in a telegram that they want to send a representative and have the date of a hearing fixed. I would suggest that the committee fix a date for a hearing, and then I will telegraph them that the date of the hearing is set, and if they desire to be heard the committee will be glad to have them present their claims on the date set; otherwise, the committee will take this up and dispose of it without delay.

Mr. KETTNER. If they are coming on it would take eight days to arrive in Washington from Inyo County, as the trains are very uncertain, and I believe there is only one train a day from Inyo County.

The CHAIRMAN. Have you anything definite to indicate that they will come on?

Mr. RAKER. Only a telegram, I have here, in which he says he will come.

Mr. TAYLOR. Are we to understand that you are willing or desirous of having a continuance and force the bill over to the next Congress, and possibly put them off for a year, when the measure has been pending for a year?

Mr. KETTNER. Indeed, I am not.

Mr. TAYLOR. I am concerned with the question as to whether or not this thing is to go over for a year.

Mr. KETTNER. I want to protect my people and give them a chance. I am not in favor of holding up this legislation.

The CHAIRMAN. Unless there is some bona fide reason.

Mr. CRAMTON. Not only is there some urgency at this time in the matter of making a report, if we are going to make one, but the time of every member of the committee is so occupied that it would seem to me that on no bill should we grant a hearing, to say nothing of holding up a bill indefinitely, unless the parties asking for the hearing can show concretely, first how their interests are affected, and neither Judge Raker nor Mr. Kettner has yet been able to show to the committee that the interests of these persons are affected by this legislation. They should show that definitely before a hearing is granted to these people.

Mr. TAYLOR. Was not this hearing set originally some two or three weeks or a month ahead, and did not all the people in Los Angeles know the hearing was going to be had at that time? Everybody in the State had a chance to be here.

Mr. RAKER. I do not believe that was the condition.

The CHAIRMAN. Let Mr. Raker and Mr. Kettner take such action as they desire in getting it before the committee by telling us what the claims are, and I will call the committee together immediately, and we will then decide on setting this date a week or 10 days ahead, and let these people be heard. Then the Los Angeles people can find out whether there is anything to this claim and go ahead. If they have claims they ought to be heard. I will call the committee together immediately as soon as Judge Raker and Mr. Kettner tell me they have a showing by wire. Would there be any objection to that course?

Mr. CRAMTON. How would it do to include in the inquiry as to their interests also a definite inquiry as to whether, if upon that showing we do decide to give them a hearing, we can depend upon their appearing at that time, their definite purpose to come?

The CHAIRMAN. I think they ought to make their claim certain, as to what they want to show, and then make certain that they will come, because we might be doing a great injustice in carrying this over to another session. If they are willing to come, and have claims that appeal to the committee, we will set a date certain and let them come on. Would that not be just and fair to the Los Angeles people?

Mr. RAKER. They say, "Are preparing to send representative. Need time to collect data. If hearing can not be postponed beyond two weeks specified in your message advise immediately as soon as final day is set. Want representative there two or three days to consult." That telegram is dated January 26.

The CHAIRMAN. Suppose we set the date down for a week from next Friday, and if they are here we will hear them; if not, we will go ahead.

Mr. RAKER. I believe it is fair to these people to fix a date, and then let them appear at that time, and I will telegraph them the matter will be taken up and heard by the committee before it is finally disposed of. That is all I can ask for them, and I think that is fair.

Mr. Chairman, I want to insert in the record a telegram sent by me under date of January 25 addressed to W. A. Chalfant, editor Inyo Register, Bishop, Cal.:

WASHINGTON, D. C., *January 25, 1919.*

W. A. CHALFANT,
Editor Inyo Register, Bishop, Cal.

Protests from citizens of Owens Valley received regarding S. 4023 and H. R. 10524, relative water supply of Los Angeles. Do you and citizens named want hearing before Public Lands Committee of the House? If so, what is earliest date delegation could appear? Time must not be longer than two weeks. Telegraph immediately.

JOHN E. RAKER, *M. C.*

The same telegram was sent to George A. Clarke, W. W. Yandell, postmaster; Thomas Thomson, jr., supervisor; Gates J. Dixon, secretary, all of Bishop; and also to the Bishop Chamber of Commerce, J. W. Bernard, president.

I also desire to insert in the record a telegram received by me signed by Harry Shaw, president, and Galen J. Dixon, secretary, under date of January 26:

BISHOP, CAL., *January 26, 1919.*

Hon. JOHN E. RAKER, M. C.,
Washington, D. C.

Are preparing to send representative. Need time to collect data. If hearing can not be postponed beyond two weeks specified in your message advise immediately as soon as final day is set. Want representative there two or three days to consult with you, Kettner, Johnson, and others.

HARRY SHAW, *President.*
GALEN J. DIXON, *Secretary.*

I also desire to put into the record a telegram received by me from W. A. Chalfant, under date of January 25:

BISHOP, CAL., *January 25, 1919.*

Hon. JOHN E. RAKER,
Member of Congress, Congress Hall Hotel, Washington, D. C.

Have referred inquiry to committee representing water interests for reply.

W. A. CHALFANT.

I also desire to insert in the record a letter addressed to Mr. Kettner and myself, dated January 8, 1919, signed by Galen J. Dixon, secretary, Associated Ditches.

(The letter referred to is as follows:)

BISHOP, CAL., *January 8, 1919.*

Hon. WILLIAM B. KETTNER and Hon. JOHN E. RAKER,
House of Representatives, Washington, D. C.

GENTLEMEN: On behalf of the citizens of Owens Valley, Inyo County, Cal., I am transmitting petition and papers for reconsideration of the Fish Slough project, the application for which was filed with the service in 1906. I am also including a protest in re the application of the city of Los Angeles before the Public Lands Committee, to be used at the hearing before that committee on January 14.

We would request that you confer regarding the application to enable Mr. Raker to protect our interests at that hearing, as we understand he is still a

member of the Public Lands Committee. The inclosed general letter is for your own information to enable you to take such action as will protect the interests of this community along with the public interests in the unreclaimed lands.

We are not in any sense protesting against such specific grants as may be deemed essential to the city's project, but we are protesting against such unlimited and indeterminate grants as will enable all public interests to be held up as has been done in the past.

We would urge upon you full consideration of the larger development of this southwest country, and to that end an extensive investigation of the possibilities of reclamation both by storage and by pumping. The deep underflows of this region we believe to be so extensive that it would justify large development of electric power, and the extension of Government aid for agricultural and municipal purposes should be mutual. The two are interdependent and we wish our interests protected before the Government shall have parted with all the public natural resources which belong primarily to this country.

Very respectfully,

GALE J. DIXON,
Secretary, Associated Ditches.

I also desire to insert in the record a letter addressed to Mr. Kettner and myself, in the form of a protest, signed by Mr. Dixon.

(The letter referred to is as follows:)

Hon. WILLIAM B. KETTNER,
Member of Congress, Eleventh Congressional District.

Hon. J. E. RAKER,
Member of Congress and Member of Public Lands Committee,
House of Representatives.
Washington, D. C.

GENTLEMEN: The citizens of Owens Valley, Inyo County, Cal., are resubmitting their petition for construction under the reclamation act of the Fish Slough project, the papers for which were filed with the department in 1906. At that time Mr. Leon H. Taylor, of the Carson-Truckee project, was detailed to examine our reservoir and the lands to be reclaimed, and after a full investigation approved and recommended its acceptance. At that time definite action had not been taken on the Owens River project and the department notified the applicants that the project would "be held in abeyance." No further action was taken at that time but the papers were not returned.

We have learned that the city of Los Angeles has been granted a hearing before the Public Lands Commitee, set for the 14th of January, in which they are applying for an extension of their grants upon the public domain, and it is feared by our people that such grants may be interpreted in such way as to jeopardize our rights. Because of the disposition in the past to treat all general grants in the nature of priority of rights by the departments, we are protesting against any such general and unlimited extension of grants as would make our irrigation system and the impounding reservoirs subject to such priorities.

We are not endeavoring to prevent such specific grants as the Public Lands Committee shall deem necessary, after they shall be fully informed as to the situation. To give you some necessary data to enable you to judge of our needs and the future requirements of the Government in the development of the public domain, we are addressing you in the interest of our storage system. The whole of our case was placed in the hands of Hon. Sylvester C. Smith, prior to his death, he then being a member of the Public Lands Committee, and if deemed necessary, we would like opportunity before action adverse to our interests has been taken, to resubmit the affidavits and details to you.

As the secretary of the Associated Ditches for the past 18 years, also as applicant for the original reservoirs to be constructed in our irrigating system, and also as Register of the United States Land Office at Independence, Cal., from 1906 to 1910, I am thoroughly familiar with all questions at issue. It is impossible to lay before you the means by which these people are being systematically dispossessed of their rights without giving some details of what has already been granted to the city of Los Angeles, and also to show how the specific clauses placed in the public act granting rights of way to the city by the Public Lands Committee for our protection has been ignored and set aside, through departmental action giving the city a general priority of right in case of every pending application for rights of way filed by our citizens.

Unless both the Fish Slough Reservoir and at least a portion of the smaller subsidiary reservoirs, which were pending prior to the adverse action taken by the Reclamation Service, are recognized and constructed by the Government, these people are utterly powerless to protect themselves. The rights of water appropriation and the rights to the use of these reservoirs could not at that time be questioned, but because of the ignoring of the terms of the congressional act by the department officials, these citizens have been dispossessed in such manner that no action is possible through the courts to recover their rights. We trust you will be able to investigate and verify the facts herein set forth to the end that our petition may be acted upon for the construction of the reservoirs in the near future, and that no adverse general grants are given which will jeopardize our rights, until the Public Lands Commission may be fully informed of our needs, the city's actual needs, and the interests of the Government in the public lands lying east of the Sierras shall be fully determined.

I make with full knowledge the following statements and charges, the evidence in most cases having been placed in the hands of Congressman Smith:

First. That Owens River reclamation project was fraudulent from its inception that the representative of the Government sent into this field was not acting in the interest of the Government but was sent here for the specific purpose of securing control of the water rights and reservoir sites through the instrumentality of the service and to gain control of the public lands in such manner that no action would lie through the courts.

Second. The citizens were actually at work constructing their storage reservoirs and canals when this agent came into the valley, notifying them that the Government would require all of the reservoir sites, and by means of his authority as such agent influencing and compelling our people to acquiesce in the plan which he submitted. To this plan over 90 per cent of our people subscribed, believing it to be the bona fide intention of the Government to construct our reservoirs and to do as the proposed plan stated, viz, reclaim all of our patented as well as the public lands of this valley.

Third. That while the congressional act granting rights of way to the city of Los Angeles were specific and limited in character, the interpretation placed upon it by the departments has been such as to nullify these terms, placed there by the Public Lands Commission for our protection, making the whole act general in character and giving to the city a priority of all rights upon the public domain. Under the interpretation all of our reservoir sites then pending which were specifically excepted by the terms of the act were held subject to the general terms of the grant, so that no reservoir or other right of way would be recognized and no work or filings upon the public domain permitted. The complete nullification of the act was absolute, and I assure you that not a single application for right of way, for a land filing, or for any other purpose was allowed to be made upon the public domain in any of the territory covered by the withdrawals for the Owens River reclamation project, and that all pending applications were held absolutely subject to the priority rulings in favor of the city.

4. Because the reclamation act requires that a full report shall be made to Congress covering each project, I trust you will be able to inspect the report upon the Owens River reclamation project, to the end that the facts in relation to the public lands lying east of the Sierras may be fully and properly laid before the Public Lands Committee. It is necessary that these facts should be before you to enable a full understanding of our rights and the means which have been used to forestall the construction of our reclamation system.

The Owens River Basin lies about centrally between the Carson-Truckee project and the Mojave Desert. Adjoining this basin on the north lie the Mono Lake Basin and the Walker River Basin. To the south line the Indian Wells, Rose Springs, and other large valleys, the whole territory comprising upward of 1,000,000 acres of rich alluvial land.

The streams of the Owens, Mono, and Walker Basins have a run-off and reservoir sites capable of developing vast power possibilities. It has been estimated, and as I believe far underestimated, that this region has a possible 500,000 horsepower capable of being developed for pumping purposes. A very large portion of the public domain is underlaid with water which would require cheap power to reclaim many thousands of acres. Between storage, salvage, drainage, and pumping of water probably from 500,000 to 600,000 acres of land is possible for such development.

After you have fully investigated the reservoir system, with the accompanying lands held for pumping purposes by the city, as set forth in the following pages, I believe you will realize that more than 100,000 acres could thus be reclaimed in the Owens Valley alone without affecting in the slightest degree the city's interests.

Fifth. The reservoir and pumping areas granted to the city are as follows:

	Acre-feet.
Long Valley Reservoir	350, 000
Tinnemaha Reservoir	130, 000
Haiwee Reservoir	140, 000
Total	620, 000

As equalizing reservoirs Tinnemaha and Haiwee Reservoirs can both be filled from winter run-off and summer flood flow, virtually doubling their capacity. With the equating of the flow from Long Valley for power purposes, an abundance of water is available for two fillings per season.

The capacity of the aqueduct being approximately 300,000 acre feet per annum, it will be seen that it could be run at full capacity for two whole seasons directly from these reservoirs without drawing from other sources.

In addition to this the city purchased from the Government an area in excess of 50,000 acres, and from private holdings of 70,000 acres, the larger portion of which is water-bearing land, some portions being a heavy artesian belt where wells have already been sunk and capped. Numerous wells sunk in this area over a wide section and reaching up and down the valley for a distance of over 75 miles prove that it is not only water bearing throughout to a depth of from 1,000 to 2,000 feet, but that it is largely artesian in character.

In addition to the foregoing the city has made large water appropriations within the Mono Lake Basin, intending to divert this water into the Owens River channel for power purposes. It has been estimated by competent engineers of worldwide experience that the water development within this area, and as set forth in the foregoing as being undertaken by the city, would be equal to from three to four times the total capacity of the aqueduct. To determine the truth of this question lies within your powers as Members of Congress and of the Public Lands Committee, and we feel that there is no justification for any extensions until the truth or falsity of these charges are known.

Sixth. In connection with your investigations of the reclamation possibilities in this region to determine whether or not a full report was made to Congress under the Owens River project, your attention is called to the reservoir sites available on the floor of the lower valley, enabling the reimpounding of all the waters from the reservoir in Long Valley used in the development of electric power.

Including the Fish Slough Reservoir, there were four large natural sites with a capacity of over 350,000 acre-feet. Two of these lie directly at the head of the canal diversions from the river, enabling all of the flow to be again used for irrigation after passing the power plants in the river canyon. A third lies at the foot of the tributaries where all of the flood waters and run-off from the power plants on Bishop Creek and four other side streams could have been reimpounded for irrigation. The fourth lies down the valley, where all of the flood waters could have been used on the lower portions of Owens Valley. You will note if any reference was made in the report to Congress of these reservoirs or their use for aiding in the development of power for pumping waters to the bottom lands.

The citizens of this valley were largely dependent upon the smaller subsidiary reservoirs for increasing the stream flow during periods and seasons of low run-off. The department has held that most of these small reservoirs were "More valuable for power than for irrigation," and under that holding have refused permission to construct them. Many thousands of acres of the most valuable foothill lands can be reclaimed by no other means. If it was the purpose of the Government to utilize these sites, we have a right to question why the larger sites were not utilized (where it can be shown that electric power by the hundred thousand horsepower could have been developed for pumping), and were not set aside for that use. Mr. Kettner and Mr. Raker, your investigation ought, and I doubt not will, reveal the truth as to why we are refused permission to construct the smaller reservoirs, and why our application for Fish Slough has been pigeonholed for over 10 years.

Seventh. The electric-power possibilities and the arid lands capable of reclamation in the region east of the Sierras and south of the Carson-Truckee project may be summarized as follows:

	Horsepower.
Owens River and its tributaries	250,000
Streams of the Mono Lake Basin	100,000
Walker River and tributaries	150,000
Total	500,000

(Above estimates are based on known development, volume and fall of water.)

The area of arid lands possible of development would include the 200,000 acres in process of reclamation by the citizens of Owens Valley and for which they are applying for the Fish Slough Reservoir. By the use of electric power the service could have developed 100,000 acres in Owens Valley, from 50,000 to 100,000 acres in the Indian Wells and adjoining valleys, and by storage and pumping from 50,000 to 100,000 acres in each of the Mono Lake and Walker River Basins. This could still be done if the city were willing to sell the surface area of its holdings in the Owens Valley, and allow sufficient electric power to be utilized from its power system in the Owens River Canyon.

It is incomprehensible that it is the policy of the Government to turn this vast area into a perpetual desert. Before taking such action, it should be the province of the Public Lands Committee to investigate the needs of the city and the lands surrounding, and for this purpose I give you such details as come within my knowledge.

Seventh. You will find that a large available reservoir in San Fernando Valley was purchased and withheld from use of the city by those who were interested in the lands of that valley. This action not only forced the construction of a much larger aqueduct system but compelled the city to turn the waters into the San Fernando Basin and the wasting of the whole of the winter flow.

Hon. Sylvester C. Smith, as a member of the Public Lands Commitee, stated to me in person that when the city officials appeared before the said committee they stated that they only wished water for municipal purposes; that their requirements would be about 10,000 inches, and specifically promised that none of this water was intended to or would be used in the San Fernando Valley.

The aqueduct as completed has a capacity of 20,000 inches, has no adequate conserving reservoir at its lower terminus, is now turning large quantities of water out into Mint Canyon and other dry washes, and it must of necessity be diverted for the irrigation of the lands such as are being thus exploited in the San Fernando. The city of San Pedro has begun action to prevent the waste waters from silting up its harbor.

The evidence shows that between the city and the ocean there are 2,000 wells and another 1,000 lying in the country to the southeasterly. The artesian and pumping flow of these wells was estimated by the city officials as not less than 10,000 inches and that the lands taken in by annexation since the commencement of construction of the aqueduct were fully supplied with water for municipal purposes. The evidence further shows that in sinking for foundations for large buildings, also for the outfall sewer, and also for numerous oil wells, that large flows of water have been encountered, in some cases being as high as 150 inches for a single well. The evidence will also show that during the longest dry period ever known the city pumping plant only lowered the water in connection with pumping for irrigation in the San Fernando 5 feet in a possible 40 feet of water-bearing gravels.

I have it direct from those who have been for years using the artesian and pumping wells in the great waterbeds of the Los Angeles and San Gabrielle Rivers, that the deep underflow had scarcely been touched beyond a depth of a few hundred feet, and that if these wells had been sunk deeper they would be furnishing a much larger flow. The same is true of the waterbed of the Owens River, a territory of approximately 3,000 square miles in extent, from one-fourth to one-third of which lies in a high snow-capped mountain section where the annual precipitation is from 3 to 4 feet. The evidence is competent to show that the deep underflow of both regions is capable of immense development, and that if the Government would undertake to reclaim this vast area, it would be one of the largest reclamation projects in the Nation.

It is to the interests of the city of Los Angeles that this great southwest country should be developed to its utmost, and it is indirectly to the interest of

the southwest that its commercial and manufacuring possibilities should be developed to their utmost. We must and should stand together. We are appealing to you to see that our interests are protected until it shall be determined by a full and careful investigation how far the country east of the Sierras can be reclaimed, and to place us in as favorable a position as we were when the Reclamation Service entered this valley.

Very respectfully,

GALEN J. DIXON.

I also desire to insert in the record the petition headed "Petition construction reservoir," addressed to the Secretary of the Interior, which says:

PETITION CONSTRUCTION RESERVOIR.

To the honorable the SECRETARY OF THE INTERIOR,
Washington, D. C.

SIR: The citizens of Owens Valley respectfully petition that the Government undertake at this time the construction of the storage reservoir, the papers for which were filed with the department in the year 1906. This reservoir, known as the Fish Slough project, was investigated by Mr. Leon H. Taylor of the Carson-Truckee project, whose report is on file with the papers. We believe that this reservoir could be constructed without interference with the Los Angeles aqueduct system, and will greatly aid in the conservation of water and aid directly in the development of electric power for pumping purposes.

Will J. Farrington, vice president and director, Farmer Ditch; Geo. W. Garner, real estate dealer and landowner; William Rowan, large ranch owner; Chas. W. Partridge, president of Owens River Canal Co.; Thos. Thompson, jr., county supervisor; Geo. A. Clarke, ex-assemblyman, Bishop, Cal.; W. W. Yandell, postmaster, Bishop, Cal.; Fred R. Smith, large land owner, Bishop, Cal.; Harry Shaw, president, Bishop Creek Ditch Co.; Chas. Summers, stock raiser; W. A. Chalfant, editor Inyo Register; Chas. A. Trowbridge, rancher, director McNally Ditch; W. P. Yaney, justice of the peace; W. H. Leffingwell, engineer; Geo. Watterson, secretary, Bishop Creek Ditch Co.; Wm. Symons, president McNally Ditch Co.; Owens Valley Farmers' Association, by W. C. Parker, secretary; Bishop Chamber of Commerce, by J. W. Bernard, president; the Associated Ditches, by Galen J. Dixon, secretary.

I also desire to insert in the record a protest in re application for extension aqueduct system by city of Los Angeles, addressed to the honorable the Public Lands Committee, House of Representatives, Washington, D. C.

(The protest referred to is as follows:)

PROTEST IN RE APPLICATION FOR EXTENSION AQUEDUCT SYSTEM BY CITY OF LOS ANGELES.

To the honorable the PUBLIC LANDS COMMITTEE,
House of Representatives,
Washington, D. C.

GENTLEMEN: Acting on behalf of the citizens of the Owens River Valley, and, as we believe, in the vital interest of the National Government, we, the undersigned, hereby protest against further general extensions of grants to the city of Los Angeles through the public domain, until the rights of the resident population of Inyo and Mono Counties, Cal., are duly protected; second, a thorough investigation shall have been made of the needs of the Government in the development of its public domain; and third, the needs of the city shall have been determined.

Against such limited and specific grants as Congress shall determine are necessary for the completion and carrying out of the Los Angeles Aqueduct system, after the Public Lands Committee shall have been fully informed of the true status of its public lands, and has determined the question of future

development, and shall have as fully protected our rights as the present status of all interests will permit, we do not protest.

Will J. Farrington, vice president and director, Farmers' Ditch; Geo. W. Garner, real estate dealer; Wm. Rowan, rancher; Chas. A. Partridge, president of Owens River Canal Co.; Thomas Thomas, jr., county supervisor; Fred R. Smith, Bishop, Cal.; Harry Shaw, rancher, president Bishop Creek Co.; Charles Summers, stock raiser; W. A. Chalfant, editor Inyo Register; Chas. A. Trowbridge, director McNally Ditch, rancher and stock raiser; W. P. Yaney, justice of the peace; W. H. Leffingwell, engineer; Geo. Watterson, secretary Bishop Creek Ditch Co.; Wm. Symons, president McNally Ditch Co.; The Associated Ditches, by Galen J. Dixon, secretary.

I present also to the committee three maps, and on the order of the committee just given the matter its continuance and set for hearing on February 7, 1919, at 10 o'clock a. m., and that will give these people an opportunity to be heard. Telegrams will be sent immediately advising them of the direction of the committee in regard to sending their protest, what they need in the bill, what they need as protection, and advising them to be here at that time, or the matter will proceed to final determination.

(Whereupon, the committee adjourned.)

Eng 1079.19

WATER SUPPLY OF LOS ANGELES, CALIFORNIA

HEARING

BEFORE THE

COMMITTEE ON THE PUBLIC LANDS

HOUSE OF REPRESENTATIVES

SIXTY-FIFTH CONGRESS
THIRD SESSION

ON

S. 4023

A BILL GRANTING RIGHTS OF WAY OVER CERTAIN LANDS FOR THE WATER SUPPLY OF LOS ANGELES, CALIFORNIA

FEBRUARY 7, 1919

PART III

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GOVERNMENT PRINTING OFFICE
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COMMITTEE ON THE PUBLIC LANDS.

SIXTY-FIFTH CONGRESS.

THIRD SESSION.

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JOHN E. RAKER, California.
CARL HAYDEN, Arizona.
DENVER S. CHURCH, California.
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WILLIAM L. LA FOLLETTE, Washington.
NICHOLAS J. SINNOTT, Oregon.
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WATER SUPPLY OF LOS ANGELES, CAL.

COMMITTEE ON THE PUBLIC LANDS,
HOUSE OF REPRESENTATIVES,
Washington, D. C., February 7, 1919.

The Committee met at 10 o'clock a. m., Hon. Scott Ferris (chairman) presiding.

The CHAIRMAN. On January 14, it will be recalled, we had a hearing on Senate bill 4023. It will also be recalled that later a telegram or some protest came in from some parties in California, and after some discussion the committee set this down for an additional hearing to give those who were opposed to this Los Angeles water-power bill a chance to be heard. This is the date they set for the hearing, and, as I understand, the parties objecting to this bill are here and desire to be heard.

Mr. Kettner, have you any statement you want us to make about this?

STATEMENT OF HON. WILLIAM KETTNER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA.

Mr. KETTNER. Mr. Chairman, several members have asked the question why the people of Inyo County had not taken any action previous to this time. I wish to inform the committee that I knew absolutely nothing about this bill until it was called to my attention a short time before the last hearing. I spoke to the committee here from Inyo County and they knew nothing about it. That was the reason. Any oversight was my fault. Perhaps I should have been better posted and notified the people of Inyo County some months ago when it was in the Senate. I wish to take the responsibility.

I have discussed this matter somewhat with Judge Raker and Mr. Watterson and Mr. Dixon, representing Inyo County. I understand that their differences can easily be adjusted. If I have understood Mr. Osborn correctly, Los Angeles wants the rights of way they were formerly granted transferred to other locations, made necessary in building their flume. Perhaps Mr. Raker can explain better than I can. If we can come to some such agreement it will make very short work for the committee.

The CHAIRMAN. Do we understand the Los Angeles interests and the Inyo County interests have reconciled their differences?

Mr. KETTNER. No; but from my understanding there is no differences that can not be adjusted.

Mr. MATHEWS. That is all there is so far as the act itself is concerned. Of course, the law is designed as an amendment to cover both water and power rights.

The aqueduct itself has been built and it has been in commission for four years, and in building, as was disclosed, it was necessary to

locate some portions of it for something like 70 miles off the approved right of way. The time for amending the maps and securing rights of way thus actually occupied has expired under the act. This bill, if it results in becoming a law, will enable the city to file approved maps so that it will have the approval of the Government for the rights of way for the aqueduct it actually occupies. So far as the aqueduct is concerned, that is all that is sought to effect. The law itself authorized the city to develop a power project. The city started to do that, and then the limitations of the act expired, which were very short. Now we want an extension of time so as to complete our power system. So far as the act is concerned, the only purpose in relation to the aqueduct is to secure the rights of way we are actually occupying under our finished work and not to enlarge or extend it one particle.

Mr. KETTNER. Then, as I understand, you are not asking for any new land so as to enlarge your system?

Mr. MATHEWS. For the acqueduct, not a bit.

Mr. KETTNER. And this bill does not contemplate taking in any more land?

Mr. MATHEWS. This bill, so far as the power is concerned, is designed to enable us to secure the rights of way for the power which we need for the purpose of perfecting the project, as we have started it, and on which we have spent something like $8,000,000. The power and acqueduct projects occupy the same general regions, and we have finished the acqueduct and are working on the power.

Mr. KETTNER. You would not object, then, to amending the bill to make it more specific? As it is at the present time, it is a general bill that covers the whole valley.

Mr. MATHEWS. I might say this. This bill, in its general form, when it was introduced in the Senate and in the House, went to the Secretary of Agriculture and to the Secretary of the Interior. They collaborated through their engineers and very radically changed the bill. They provided, for instance, so far as the power project is concerned, that the Secretary of the Interior must pass not only on the rights of way we ask for, but on our plans. So that we have to go to the Secretary of the Interior to pass on our plans for the work we are seeking to do.

The CHAIRMAN. Do the people who are here—Capt. Osborne and the people from Los Angeles—desire to confer further before any action is taken, and see if they can get together?

Mr. LA FOLLETTE. Mr. Chairman, at two different meetings now I have tried to find out, first from Judge Raker and from Mr. Mathews and Mr. Osborne, what the differences are; if this contemplates taking in any more water, or acquiring any more water, and to take water through this acqueduct that the Inyo County people claim they should have for their use. I have not been able to get any satisfaction in that respect, and that is what I would like to know.

Mr. MATHEWS. Absolutely, it is not designed and will not have the effect of enabling us to take an additional drop of water from that valley.

Mr. KETTNER. In answer to Mr. La Follette, I wish to state that the bill, as it reads at present, covers the whole valley and will permit them to file on every inch of land and forest reserves in the several counties mentioned in the bill.

Mr. ELSTON. I do not understand that. I remember distinctly asking Mr. Mathews about that matter. I asked him whether the granting of all the powers conferred by this bill would utilize any power or water which he could not have utilized exclusively himself, and which they would have utilized and would have barred from utilization by others if the bill were not passed; that is, would the bill cover into the possession of Los Angeles anything which it did not already have an option on, or hold on, and which they could have used for all time. I understood from Mr. Mathews they were simply going to use what they had for their own. And I got the impression, so far as the power project proposition was concerned, they merely wanted to utilize running water in the acqueduct which was running down and would go to waste unless they were authorized to use it. And I got the impression, when the matter was discussed here, they were not reaching out for anything additional, but were merely trying to use that which was going to waste.

Mr. MATHEWS. I would like to correct that.

Mr. ELSTON. That was my impression, Mr. Mathews, which I got from the hearing.

Mr. MATHEWS. We had to get something. If we had all that, I would not have to come here.

Mr. RAKER. I would like to answer Mr. La Follette's question and Mr. Elston's question before we hear Mr. Mathews and the representatives who have come here to be heard at this time. I would like to make this statement and then to ask Mr. Mathews a question. I am satisfied that the committee got the impression, or at least it was what they told me, practically all of them, that there were no additional rights desired under this bill save and except those already constructed and a confirmation only of the constructed rights of way over the public lands of the canals, ditches, and reservoirs now constructed and used. Now I asked these gentlemen yesterday in regard to this matter. I think I can adjust this matter so far as the taking of additional testimony is concerned in a very few moments. If that impression of the committee is correct, with the permission of the chairman, before these gentlemen start to make their statements, I would like to ask Mr. Mathews a few questions on that to see if I am correct.

The CHAIRMAN. I think that is the way to proceed.

Mr. RAKER. Before asking the questions, so that there can be no misunderstanding on them: This bill, in its present form, covers in all of Inyo County and Kern County and the other counties of the forest reserves that Los Angeles might desire. There is no need to deceive ourselves on that. But as I understand, that is not the purpose of the gentlemen from Los Angeles. And in order to save the committee's time, I am going to ask Mr. Mathews these questions:

Mr. Mathews, the aqueduct from the intake to Los Angeles is constructed, completed, and being used?

Mr. MATHEWS. Yes, sir.

Mr. RAKER. It is off the right of way, according to your plans and plats in the General Land Office?

Mr. MATHEWS. Yes.

Mr. RAKER. It is located at some places 2 or 3 miles, and in some places——

Mr. MATHEWS. At varying distances.

Mr. RAKER. Now what you want is a confirmation of the acqueduct from the intake on the Owens River to Los Angeles, according to the acqueduct as it is now constructed?

Mr. MATHEWS. That is what we want in the end. We do not propose to file new maps for another acqueduct, but only for the rights of way actually occupied which are a departure from the approved rights of way.

Mr. RAKER. That is what I say; as to the acqueduct, it is already on the ground and constructed and physically there.

Mr. MATHEWS. Yes.

Mr. RAKER. And you want a grant confirming your construction over the public domain, to be located where it now is?

Mr. MATHEWS. Absolutely, that is the case.

Mr. RAKER. Now, as I understood from your statement, on reading it here, there are no other rights that Los Angeles desires save and except those under this bill. Is that right?

Mr. MATHEWS. Yes, and to obtain power.

Mr. RAKER. I want to be specific, now: Are there any other rights under this bill which Los Angeles desires in addition to a confirmation of its right of way for this aqueduct as it is now completed?

Mr. MATHEWS. There are other rights.

Mr. RAKER. What are they?

Mr. MATHEWS. The rights pertaining to power.

Mr. RAKER. Of what do they consist?

Mr. MATHEWS. The rights of way for power houses and transmission lines, reservoirs, and structures for power.

Mr. RAKER. That is not on the present surveyed land of the aqueduct; it hasn't anything to do with the aqueduct?

Mr. MATHEWS. No. We have not built the power except in part.

Mr. RAKER. That has nothing to do with the aqueduct, so far as the land is concerned; it is not the same land?

Mr. MATHEWS. Yes, in this way: We have projected certain power development along the line of the aqueduct, at places where we can use the fall of the water in the aqueduct for power. We need places for power houses and rights of way to carry that down.

Mr. RAKER. Along the aqueduct?

Mr. MATHEWS. Yes.

Mr. ELSTON. For power generated by water in the aqueduct below the intake; is that it? Are the power rights you want rights of way and the right to build power houses for transmission of power generated by the water in the aqueduct below the intake?

Mr. MATHEWS. Judge Raker asked me if we wanted anything as regards power pertaining to the aqueduct. I am answering that question specifically. We do want rights of way along the aqueduct for the location of power houses which generate power from the fall of water in the aqueduct, and rights of way for transmission lines to carry the power down along the aqueduct, close to the aqueduct, to the city of Los Angeles. And we want rights of way otherwise and elsewhere.

Mr. RAKER. Let us hold tight to the aqueduct.

Mr. MATHEWS. All right.

Mr. RAKER. Then, as a matter of fact, from the intake to Los Angeles (the committee will understand that from the plat later)—

from the intake in the Owens River along the aqueduct to Los Angeles, in addition to the physical structure of the canal where it is now, the aqueduct, from the point named, namely, from the intake, to Los Angeles, you desire additional sites of land along the aqueduct for power house and transmission lines?

Mr. MATHEWS. That is right.

Mr. RAKER. Between the points named?

Mr. MATHEWS. Yes.

Mr. RAKER. But that does not in any way affect any of the lands or waters or conditions above the intake so far, now, as that particular point is concerned?

Mr. MATHEWS. Except in this way: We have built our lines, so far as we have built them, and we will complete them, according to plans that provide for the capacity and weight of materials so as to carry the power that will be developed at points above the intake, you see. If it were not for that power above the intake, we would build with less capacity, less weight of material, and less expense.

Mr. RAKER. It is wholly immaterial as to the amount of power generated; where it comes from. You are seeking additional locations for transmission houses and generation houses and plants along the acqueduct, from the intake to Los Angeles?

Mr. MATHEWS. Yes.

Mr. RAKER. And that would cover the use of the aqueduct already constructed?

Mr. MATHEWS. Yes.

Mr. RAKER. Have you those platted out at all, generally?

Mr. MATHEWS. We have built one already and we are starting on the second plant, on Government land in the aqueduct below the intake?

Mr. RAKER. Where is that?

Mr. MATHEWS. Below the intake. It is known as "Plant No. 1."

Mr. RAKER. Where is the next one?

Mr. MATHEWS. The next is 6 miles below, on the aqueduct, and designed to use the same water, and known as "Plant No. 2."

Mr. RAKER. Is that in Inyo County?

Mr. MATHEWS. In Los Angeles County.

Mr. RAKER. What is the next one? Where is it?

Mr. MATHEWS. There are two or three plants still below that, smaller in size, designed to use the water in the aqueduct as it goes to Los Angeles. Then above, still along the aqueduct and still below the intake, at a point called Haiwee, the city has a power project designed to use, and to use solely, the flow of water in the aqueduct for the purpose of generating power.

Mr. RAKER. From this reservoir?

Mr. MATHEWS. It is just below the reservoir. The reservoir is elevated and the water flows from it at a considerable height.

Mr. RAKER. This reservoir we see there now, as I saw it there two years ago, that is already constructed?

Mr. MATHEWS. Yes.

Mr. SINNOTT. When you speak of "along the aqueduct," do you mean upon the 250-foot right of way?

Mr. MATHEWS. No; not necessarily. You know, when you go to build a power line you must have a straight line; and when you build an aqueduct you follow a grade. The aqueduct of the city of Los

Angeles has many sinuosities. When we build a power line we cut across where necessary, but generally build along the line of the aqueduct.

Mr. SINNOTT. But not on the 250-foot right of way?

Mr. MATHEWS. No; it is not possible.

Mr. RAKER. This reservoir that is below the intake: How many miles below the intake is it?

Mr. MATHEWS. Sixty miles.

Mr. RAKER. You filed your plat with the general plat for the aqueduct, and it has been in use for the last four or five years?

Mr. MATHEWS. In commission.

Mr. RAKER. And that is 60 miles or more below the intake and would all be below these people here in Inyo County?

Mr. MATHEWS. Yes. We have no idea there is any chance for question on that.

Mr. RAKER. Have you described, practically now, all you desire from the intake to Los Angeles, so far as you desire to do from now on?

Mr. MATHEWS. So far as power relating to the acqueduct itself is concerned?

Mr. RAKER. So far as additional land is concerned, and so far as additional plants are concerned, and additional reservoirs are concerned?

Mr. MATHEWS. No.

The CHAIRMAN. First, they want a confirmation of about 70 miles of right of way where they have departed from the original right of way?

Mr. SINNOTT. That is No. 1.

The CHAIRMAN. No. 2, Mr. Mathews, I will say very frankly, wanted to have a right of way for transmission lines and power houses that would sometimes depart from its 250-foot right of way. What is the third?

Mr. MATHEWS. Along the line of the aqueduct, at a point 40 miles below the intake, near the stream flowing from the mountain down to and discharging into the aqueduct, known as "Cottonwood Creek." Under the old act, we built a small power house, which we used in building the aqueduct, and since the aqueduct was completed we have been using that power house for local use. We light the county seat and we light another town, and we furnish power for soda manufacture on Owens Lake, and we have other power projects on the same stream, Cottonwood Creek, which we intended to develop or provide for, but were prevented by the expiration of the limitations of the act. We want to complete those. That power will be hitched up with the main transmission line running down along the aqueduct.

Mr. RAKER. I would like to hold to the aqueduct if I could. I think we would save time. Then I will get to the real question and the committee can dispose of it. There is nothing now down along the acqueduct which you think of, in the confirmation of this bill, except the Cottonwood proposition?

Mr. MATHEWS. No.

Mr. RAKER. Cottonwood Creek comes in from the west?

Mr. MATHEWS. Yes.

Mr. RAKER. And you built a power plant temporarily for the purpose of using it when you were constructing the acqueduct?

Mr. MATHEWS. Yes. Of course it is very hard for me to be accurate as to what the final plans would be. Take even above Cottonwood Creek and below the intake, there are still two or three streams flowing into the aqueduct from the sides of the mountains where power could be developed, and we have on one of those streams—that is, Division Creek—a little power plant which we built under this act and from which we are now undertaking to suplpy electricity for local use to the public. We may want, if we can, to get money to develop power on those little streams and hitch them up with this general project.

Mr. CHURCH. How far below the intake are they?

Mr. MATHEWS. Division Creek is perhaps 4 or 5 miles; a small stream.

Mr. RAKER. On Division Creek and on Cottonwood Creek, you did not have any aqueduct planned in connection with your system when you built it?

Mr. MATHEWS. Yes. We filed applications both on Cottonwood Creek and Division Creek, under the old act.

Mr. RAKER. For reservoir rights of way?

Mr. MATHEWS. On Division Creek there is no reservoir possibility. We just filed for the rights of way for the location of the power houses and transmission lines. And we have been operating that plant ever since. In fact, there are two plants there.

Mr. RAKER. And on Cottonwood Creek the same?

Mr. MATHEWS. On Cottonwood Creek the same. There are more power possibilities on that creek.

Mr. RAKER. I do not care to go into the merits of those particular features. Now, above the intake, do you desire any additional legislation?

Mr. MATHEWS. Yes, sir.

Mr. RAKER. What I want to know is just definitely—the committee thought there were new rights desired, from the hearing, and you can put it clearly. Does the city of Los Angeles desire additional rights of way?

Mr. MATHEWS. Yes, sir.

Mr. RAKER. Reservoir sites and other sites for transmission lines for power purposes above the intake that have not been constructed and are not provided for in the present operation?

Mr. MATHEWS. It does want these——

The CHAIRMAN. Just let him elaborate that.

Mr. MATHEWS. Under the present law, the old act, the city acquired under the act a large body of land in what is known as "Long Valley," which is, I will say, 60 miles above the intake, for reservoir purposes. I might explain that Long Valley is largely in Mono County, and from that valley down to the next valley, which is the Owens River Valley, the river descends a steep grade through a gorge, down to the level of Owens County; and the city, in addition to buying or acquiring the land, which amounted to many thousands of acres, from the Government under the act, also acquired from the Government, and paid for at the rate of $1.25 an acre, under section 4 of the act, the land along the gorge for 12 or 15 miles, being all the land along the gorge in public ownership, and which they paid for under section 4 at the rate of $1.25 an acre. The city, since acquiring that has prosecuted the work of power development there, and now has a large power

tunnel, approximately 4,000 feet long, which it has been at work on for purpose of power develoment. It branches off from the river at or below the point of the site of the Long Valley Dam. Now what we want there, particularly, are the necessary rights of way to enable us to take that power, which we propose to develop there at three plants, and to carry it down to Los Angeles. And that will be carried through other transmission lines built to carry the power developed along the aqueduct.

Mr. RAKER. Then it is not a confirmation you are asking for in this bill on that, but it is entirely new legislation, isn't it?

Mr. MATHEWS. Yes, sir. Additional rights are required and desired.

Mr. RAKER. In other words, this bill permits the city of Los Angeles to file in those counties, Mono and Kern Counties, and in this forest reserves, anywhere they may see fit?

Mr. MATHEWS. No; the bill keeps us out of Mono Basin, so-called, and says we shall not make any filings in the Kern River Basin.

Mr. RAKER. Outside of the Mono and Kern River Basins, it permits the city to make filings on any land it may desire, and as much as it may desire, on any lands not excluded in the bill?

Mr. MATHEWS. Hardly, because the Secretary of the Interior may disapprove. He has the power to determine.

Mr. RAKER. I know he has the power to determine, but I simply say it authorizes the city to file, and it is up to the Secretary of the Interior and the Secretary of Agriculture to approve if they see fit. Is that right?

Mr. MATHEWS. The Secretary of the Interior may approve it if he sees fit.

Mr. RAKER. So, that, as a matter of fact, the bill would be a complete blanket over all the territory not included in the bill. Is that the situation?

Mr. MATHEWS. Not a blanket to that extent.

Mr. RAKER. And that is new legislation?

Mr. MATHEWS. Yes; it is new.

Mr. SINNOTT. Do you mean filing on rights of way or water rights?

Mr. RAKER. No; land claims. In other words, all rights—canals, ditches, tunnels, reservoirs and reservoir sites, power-house plants. That would cover the entire counties named in this bill. That is new legislation., and Mr. Mathews admits that, because the bill so states.

Mr. MATHEWS. I would like to state that we would not get under this legislation anything we could not have gotten if the time limits under the existing law, or old law, had not been so short that we could not get to it.

Mr. RAKER. I know, but the committee somewhat criticised me for asking for a further hearing on the ground that what you asked for in this bill would not be new legislation, but solely a confirmation of what had already been constructed.

Mr. MATHEWS. You will agree I have not opposed you at any time in getting your people here.

Mr. RAKER. I know you have not, but I just wanted you to substantiate that so that the committee would know what the contest is.

Mr. LA FOLLETTE. Was not the real purpose to know whether Los Angeles was trying to get more water than what it had by rights already conferred, and that that water is claimed by these other

people? The committee was not particularly interested in the rights of way to carry the power from water they had already acquired. The committee did not want to give to Los Angeles any right to use water that probably somebody else in California had a better right to.

Mr. RAKER. So that there may be no misunderstanding, if the bill does not provide it, it should provide that this does not affect the laws of the State of California, so far as water rights are concerned. We have no jurisdiction over water. We can not have any jurisdiction over water, nor can we legislate with regard to water. But the only question involved is the right for the Government to grant them its land, whether one acre or a million acres, for ditches, canals, or reservoirs, and that is what the bill is—an unlimited grant of land in these counties.

Mr. OSBORNE. May I ask Judge Raker a question? Of course Judge Raker knows that the right to the water—he recognizes that the United States Government has nothing whatever to do with water rights.

Mr. RAKER. Conceded.

Mr. OSBORNE. Does Judge Raker know that these rights of way are only to apply to water already owned by the city of Los Angeles and none others—not another drop?

Mr. RAKER. That is the whole controversy. If it is admitted that that is all that is desired, I am satisfied we can amend this bill to satisfy all parties.

Mr. OSBORNE. It would, of course, be absolutely impossible for us to say that the city of Los Angeles should have water; it would be futile, because the National Government has no such right. The rights to water are entirely in the State of California. The city of Los Angeles owns this water. When you speak about the intake of the aqueduct, that is the commencement of the aqueduct proper, and the water to fill that aqueduct has already been secured from the State of California; and all we want is the right to take that water and use it on these lands.

Mr. LA FOLLETTE. The committee of course realizes, the most of us, that the United States has no power over that water. The thing in my mind was whether our granting you certain rights would allow you to put in canals and dams that would prevent other people, even those that had acquired water from the State of California, from using that water.

Mr. OSBORNE. We do not want that at all.

Mr. LA FOLLETTE. That is the question in my mind; it was not the fact that you could get other water or that the Government owned any water, but I would not want to vote for anything that would give you people a right to construct dams and to construct reservoirs or to construct canals that would preclude the use of water that was not owned by you people—would preclude other people from using that.

Mr. OSBORNE. We do not want that.

Mr. LA FOLLETTE. That is the thing in my mind.

Mr. OSBORNE. In the old act there is this section 3 that protects the rights of everybody. I won't read it, because you are all familiar with it. But we are etirely willing that that entire section shall be placed in this act. It was in the old act, protecting all the rights, and we are perfectly willing it should be placed in this bill.

Mr. RAKER. In addition to that section 3 being incorporated in this legislation—you believe it ought to be in?

Mr. OSBORNE. Yes.

Mr. RAKER. And do you further believe the provision of the Hetch Hetchy bill, which says "this shall not affect in any way the question of water and the claims shall be adjudicated" and so forth—you believe that ought to be in this bill also?

Mr. OSBORNE. Yes; I believe it ought to be in.

Mr. KETTNER. I see there is a difference of opinion and I would like to have the gentlemen here from Inyo County given an opportunity to be heard. We have Mr. Watterson here——

Mr. RAKER. This bill blankets in all of the counties named and all the territory and every foot of land included that is not already in private ownership; it would be the duty of the Secretary of the Interior to withdraw all land so that thereafter there would be no more canals, ditches or reservoirs or anything acted on by the department, no land filings, homesteads, desert, timber, or otherwise, until those holdings had been determined. That would hold it up for four or five years, because that is exactly what the department did in 1906, withdrew from filing all land, homestead, desert, timber and other land. If that is what these people want in the bill, and that is their language now, the representatives from Los Angeles should say so, and these people have the right to say wherein their rights would be jeopardized.

The CHAIRMAN. I have no preference about it myself but I do not know what is in the minds of the committee. But it occurs to me this being a California matter and with the Members from California here on both sides, members of the committee, if they are willing they might retire and work this out together. If so, all well and good; if not, the hearing was called for the purpose of hearing those who opposed this bill, and we will go ahead with the hearing.

Mr. CRAMTON. This appears to be a matter of considerable importance and it was brought before the committee a little time ago in a somewhat hurried way, and being looked upon by those of us who are not from California, as a California matter and being presented to us in a way that led us to believe it was largely a perfunctory ratification of what had already occurred, we were prepared to handle it in a very prompt way and therefore have hurried through without a real investigation of the issues. Now, this morning the discussion points to issues far wider than I know I gathered from the former hearing. I find from an examination of Mr. Mathews's statement before the committee the other day, that he really did tell us what was in the bill, but he did not enlarge upon what seems to be the important feature of the bill. I find this sentence from Mr. Mathews: "This bill has for its object and purpose the enabling of the city to file maps for rights of way according to the actual location of the aqueduct"—and through the balance of the hearing that was discussed at much length; and then his concluding statement, "as well as to enable the city to carry out and complete its power scheme." I will grant that was a basis for anything that has come up this morning, but it was not elaborated upon, and I am one member of the committee who regrets it was not elaborated upon. So that now before I am prepared to vote on this proposition I hope somebody, if California does get together on this, will state

fully and frankly to the committee just what they expect to gain by this bill; because I feel that the committee was entitled to that statement at our former hearing.

The CHAIRMAN. I thought Judge Raker developed that pretty well just now, Mr. Cramton. As I say, there is no question at all about the procedure this morning. We have asked these gentlemen here and they have come from a long way, and if they want to be heard we will hear them.

Mr. KETTNER. I really think Mr. Watterson should be heard.

Mr. OSBORNE. I agree, Mr. Chairman, the better way would be to take it up with the committee. I want to thank Mr. Cramton for bringing out that point. We understand the point he brought out and I thank him for bringing it to the attention of the committee. Mr. Mathews, in his statement, did bring out this point, but perhaps not as clearly as members of the committee would like.

Mr. CRAMTON. To those of us who are a long distance away from these things it is not as clear, perhaps, as to you gentlemen who understand them perfectly.

Mr. OSBORNE. I do not want the committee to understand Mr. Mathews had been disingenuous in his statement, because he was not. In regard to Judge Raker's statement, he is a lawyer of very great ability, and he stated very broadly the idea that this contemplates covering in these entire counties, about as big as New England. As a matter of fact, all we want, besides ratifying the aqueduct right of way, is rights of way to generate this electricity from the water that we already own and to transmit it. That is all we want. As I have said before, we do not want to interfere with the rights of anyone. We do not want to take anything away from anybody that belongs to them. But we are a great city, gentlemen; we are a city of 600,000 people; and we have gone to a vast expense to develop this water, and the electricity we will generate from it is greatly needed by the country and is greatly needed in the way of clearing up these bonds we have issued. It is very important. It is a great municipally owned project, and we feel the necessity for the rights of way. At the same time we do not want to take anything away from anybody—not a single thing—and we are entirely willing to have those provisions suggested by Judge Raker put in the bill, so that everybody's rights are saved. Now, these gentlemen have come a long way and naturally would like to be heard. After Mr. Watterson has made his statement we have here Mr. Fred Eaton. Mr. Eaton, when I first knew him, was a young man with black hair and a long black mustache. He was the city engineer of Los Angeles, and he has worked on these water problems all of his life. Afterwards he was the mayor of the city of Los Angeles, and a mighty good mayor, too. Then he became a rancher, and he is here now as to his own land, and he has more land irrigated than any one owner in that country. And, after Mr. Watterson and Mr. Dixon have made their statements, I would like Mr. Eaton to be heard.

Mr. RANDALL. With reference to Mr. Cramton's statement in regard to Mr. Mathews's presentation, I find the opening statement of Mr. Mathews dealt more with the power project than it did with the water project. On page 10 he says, "In 1906 Congress passed an act," etc., and at the bottom of the page, "The city was so loaded with its water scheme that it could not either muster the money or

the time to take advantage of the provisions of the act in regard to filing its maps for its power project. However, the city has proceeded with its power development as fast as it could since that time, using Forest Service permits," etc. I think you will find Mr. Mathews presented both ends of the case quite fully in his opening statement.

Mr. SINNOTT. I see, on page 12, Mr. Mathews stated, "The bill as introduced would allow the city to go outside of that region to the north into what is known as the Mono country and to the west into what is known as the Kern River country," and he then develops the idea he wants additional power.

Mr. CRAMTON. To the gentlemen from California who know where Mono County was and knew where the power proposition was and the water proposition was it may be altogether clear. But to persons who are not familiar, who do not know whether running around the country for 70 miles on land not granted to them was connected with the power project or the water project, the matter was left pretty hazy. And the emphasis of the hearing (and I concede it was entirely the fault of my understanding) seemed to emphasize the ratification of that 70 miles of routing, rather than the granting of some power sites. And what I desire is a statement to be made which I can understand.

Mr. RANDALL. I grant all that. All I wanted was to make a reference to Mr. Mathews's statement.

Mr. CRAMTON. I did not know where the water power was and where the power project was, and I supposed they were together.

Mr. OSBORNE. I went up there 41 years ago; it is all perfectly familiar to me.

Mr. ELSTON. There is one other witness here who has not been mentioned. To my surprise I find Mr. Adams, from Oakland, Cal., my district, who has some interests up there, which he has told me he represents here. I did not know when the matter came up here at the last meeting that it touched anyone up there outside of Inyo County.

I understand that their claims, generally, will be the right either to protect what they have now or to initiate, before this blanket proposition goes into effect, certain outlets and ramifications of their own projects in such a way as not to be hampered by what Los Angeles intends to do, and may be protected by this act, and if they can show what the natural ambitions of Los Angeles are it would naturally be a saving, of course, to do that, without taking two or three hours of the time of the committee. First, I would like to hear from Mr. Dixon and Mr. Adams as to what they wish to do and then to see——

Mr. KETTNER. I have just conferred with Mr. Watterson and Mr. Dixon, and from the statements made they think perhaps we could get together; so if the committee will give us until Monday at 10.30——

(After a conference.)

The CHAIRMAN. If that is satisfactory to the committee, we will adjourn until Monday, February 10, 1919, at 10 o'clock.

Before the hearing is adjourned Mr. Randall, of California, desires to submit the following telegram for the record:

PASADENA, CAL., *February 14.*

Congressman RANDALL, *Washington, D. C.:*

We consider it vital to the best interests of the public of all southern California that the pending bill covering amendment to special right of way granted Los Angeles in 1906 be passed without modification. This community is particularly concerned in the establishment of this Government policy.

A. L. HAMILTON,
Chairman City Commission.
C. W. KONER,
Manager Municipal Light Department of Pasadena.

(Thereupon, at 11 o'clock a. m., the further hearing by the full committee was adjourned to Monday, February 10, 1919, at 10 o'clock a. m.)

COMMITTEE ON THE PUBLIC LANDS,
Washington, D. C., February 7, 1919.

The conference was presided over by Representative Raker, of California.

Present: Representatives Kettner, Church, Elston, Osborne, and Randall; also present, Mr. W. B. Mathews, representing the City of Los Angeles; and Messrs. George Watterson, of Bishop, Cal.; Galen J. Dixon, of Bishop; Mr. Edson F. Adams, of Oakland; and Mr. Fred Eaton, of Big Pine, Inyo County.

Mr. RAKER. The question is to see what we can do in regard to the provisions of Senate 4023. I want to make this statement so that we can see if we can get this started.

In the provisions of the Senate bill we have agreed we should have in section 3 of the former bill reserving all prior rights and protecting them. Second, that it should have in a provision that this bill does not in any way affect the rights to the use of water and water rights, and that they shall all be adjudicated under the laws of the State of California—the same provision as in the Hetch Hetchy bill.

Now, to see if we can understand the matter. I want to say this, before proceeding: My own purpose is to assist, if I can, in this legislation. That is my sole and only purpose. I heard only part of the hearings, but I was unavoidably called out when they were given at the last hearing. I have heard of this situation in many ways, and have been up and down over the country and represented part of it from time to time, and I have been up and down over the aqueduct and know something about the general conditions.

The statements made this morning, as well as those heretofore made, show that the city of Los Angeles wants this confirmation of the rights of way where its aqueduct is now physically located, from the intake to Los Angeles, with the additional right to locate power-house plants and transmission lines. That is all below the aqueduct. Then comes the question as to the provisions of section 1 of the bill.

Mr. ELSTON. I think it might be well, before you read section 1, to get marked in section 1 the exact departure it represents from the original section 1 of the act; that is, just what new matter there is in it. I think Mr. Mathews might inform us what new matter there is in the new act. That will give us the whole idea.

Mr. RAKER. That is a little hard to get at, because that act has expired except as to the rights that they obtained under it. That is conceded, Mr. Mathews?

Mr. MATHEWS. Yes.

Mr. RAKER. That is conceded; so we get down to the new proceeding. Under section 1, as I understand, let us see if we understand it right before we try to do anything else. Section 1 reads, "that there is hereby granted to the city of Los Angeles, Cal., a municipal corporation of the State of California, all necessary rights of way, not to exceed 250 feet in width, over and through the public lands of the United States, in the counties of Mono, Inyo, Kern, and Los Angeles, and over and through the Inyo, Sequoia, Santa Barbara, and Angeles National Forests, in said State."

That covers the entire counties named and the territory named, and allows them to locate their works, whatever they may be, wherever and whenever they see fit, in a period of four years. It would take in the entire counties not already covered by private ownership.

Mr. CHURCH. I do not think so. It says, "all necessary rights of way, not to exceed 250 feet in width, over and through the public lands of the United States."

Mr. RAKER. This is a right to file whenever and wherever, within the four years, and then it is up. And the Secretary of the Interior determines whether or not they are necessary. Is that not a fair interpretation of the bill?

Mr. WATTERSON. Such lands as necessary.

Mr. OSBORNE. Such lands as necessary.

Mr. ADAMS. This does not say the Secretary of the Interior has any option in the matter, except to approve them.

Mr. RAKER. That is all.

Mr. ADAMS. I suppose he has no option; he has to approve them.

Mr. RAKER. Let us see if we can get at the purpose of the bill. It permits the city of Los Angeles to file in four years on any of the lands in these forests reserves, which it may see fit. Is not that true, Mr. Church?

Mr. CHURCH. I think so.

Mr. RAKER. For the purpose of constructing, operating, and maintaining canals, ditches, pipes and pipe lines, flumes, tunnels, and conduits for conveying water to the city of Los Angeles, and for the purpose of constructing, operating, and maintaining power and electric plants, poles and lines for the generating and distribution of electric energy, together with such lands as the Secretary of the Interior may deem to be actually necessary for power houses. That relates only to what the Secretary may deem absolutely necessary for power houses. The rest he has not anything to do with. Then it goes on, "diverting and storage dams and reservoirs, and necessary buildings and structures to be used in connection with the construction, operation, and maintenance of said water, power, and electric plants whenever said city shall have filed, as hereinafter provided, and the same shall have been approved by the Secretary of the Interior"——

Mr. OSBORNE. You see the Secretary does have something to say.

Mr. BAKER. Yes; as to the lands. The section continues "a map or maps showing the boundaries, locations, and extent of said proposed rights of way for the purposes herein above set forth: *Provided, however*, That the grant hereby made shall not apply to lands located in the drainage basin of Mono Lake or of Kern River, in said State."

That is, excepting Mono Lake and Kern River, it takes all of the territory mentioned.

Mr. MATHEWS. Section 6 of the original act also excepts Bishop Creek, and its tributaries, and it is the intention or our desire that such exception still continue. We are not changing that part of the present act.

Mr. RAKER. They would have the right in Inyo, Mono, Kern, and Los Angeles Counties to file on every piece of land that they might desire in those four counties, for the purposes named, and can have such lands in those four counties for power houses, diverting and storage dams, and reservoirs as the Secretary of the Interior might think necessary, as well as in these three forest reserves.

Mr. MATHEWS. We do not intend that.

Mr. RAKER. Let us not hold to the intention. The only question is, What power does this bill give?

Mr. WATTERSON. To the exclusion of every one else.

Mr. RAKER. Let us see if that is not the language of the bill. What a man's intention is and what might be done, and what would be done, we can take up later. Do you agree on that; is that your construction, Mr. Church?

Mr. CHURCH. I have not looked it over carefully.

Mr. MATHEWS. I want to call attention to the report of the Secretary of Agriculture. He discusses the same point. He says, "according to the proposed bill, only sections 1, 2, and 6 of the act are amended," presumably leaving the other sections intact and in full force and effect. That is the idea, and just what we are willing to do. Is not that your idea? I simply say we do not intend to change that limitation. If this does change it and leaves it in doubt, you can make it as certain as you please. We do not intend to go any further on Bishop Creek.

Mr. ELSTON. I do not think that is right. I think the legal effect of this act is to exclude sections 3 and 4 altogether. This is not an amendatory act; this is a reenacting act. It provides that the act shall be amended "and hereafter read as follows." When you say "read as follows," that means it clears off all the legislation, and to that extent it means in this act that everything with reference to Los Angeles here is wiped off the board. You see this act is amended—"and the same is hereby amended to read as follows."

Mr. MATHEWS. Then it takes them up by sections.

Mr. ELSTON. I say there is a double construction there. If you say sections 1, 2, and 3 of said act are hereby amended, that would be one thing, but you say the act is hereby amended and hereafter shall read as follows, and that leaves the thing out altogether.

Mr. MATHEWS. We started to get this law through five or six years ago, and we drew our own act especially to get what we wanted. The bill came to this committee and was referred to the Secretary of the Interior. He said, "Why do you want that kind of a bill?" He said, "I will draw a bill that suits me," and he drew a bill amendatory of

certain sections of this act, and it is on file in this office, and he said, "This is the way it should be handled." And he handled it in his own way.

Mr. ELSTON. I am simply saying my opinion, as a lawyer, is there would be a very close construction there as to whether any part of the old act continues at all, or whether this supersedes the whole thing. Of course, if I were to draw this bill, I would draw a line with my pen through the whole thing.

Mr. WATTERSON. The Secretary says this confirmation is incorrect.

Mr. ELSTON. How would you read that, Mr. Raker?

Mr. RAKER. I am inclined to think this section 1 reenacts and gives the city of Los Angeles, in addition to what it has already, the right to make fillings on any of the lands within these four counties and within the forest reserves named, except the proviso, Mono Lake and the Kern River district; so that Los Angeles has the right to file on any of the lands in those counties and forest reserves that it may hereafter desire to do, without any limitation whatever.

Mr. ELSTON. I am not referring to that. When this act is passed will there be any old act at all? I am speaking of line 10, section 1, of this act. It says, "The same is hereby amended to read as follows: What do you mean by "the same is"? That means the act, the previous act, is amended to read as follows. That means the whole act is amended to read as follows, so that that would exclude two sections of the old act.

Mr. RAKER. I get your point now. There is much merit in it, and perhaps the court might construe it in that way. That being the case——

Mr. ELSTON. I think if we were going by section 1 only we had better cut that out, because this section 1 is the enacting clause, and we had better change that so that the act is only amended as it purports to be amended, and not wipe off the whole previous act. So that you had better say this, "it is hereby amended as follows."

Mr. KETTNER. Take out the words "to read."

Mr. ELSTON. Yes, because all you are doing is amending that act, and you should say, "it is hereby amended as follows."

Mr. RAKER. Now, you are wrong on that, because you did not read the first part of it, "that section 1 of the act is amended."

Mr. ELSTON. Yes, you are right; section 1 is amended.

Mr. RAKER. Now, what is desired as we have learned this morning and heretofore, at least as I understood it, the city of Los Angeles wants to extend its power system, including new reservoirs, new dam sites, new rights of way for power lines, and so forth. That I understand to be correct, Mr. Mathews?

Mr. MATHEWS. Yes, sir.

Mr. RAKER. Which were not in its present system?

Mr. MATHEWS. Yes; in addition to what we have.

Mr. RAKER. So that there comes the controversy. Now, these other men here contend that by giving them this blanket right that all prior claims, even up to this time, all rights they might have, would be cut off and Los Angeles would defeat them of any claims they might have. Now, how can this be adjusted to remove that difference? I understand that Mr. Eaton has a large tract of land there which the city is figuring on getting and converting into a reservoir to use in the storage of water, and also to add more water to the Los

Angeles system, as well as the power possibilities. Is that right, Mr. Eaton?

Mr. EATON. Yes.

Mr. RAKER. So that that is a new system?

Mr. EATON. No, it is a part of the plan.

Mr. RAKER. It is the plan, but it is new.

Mr. EATON. It is not constructed yet, but it is the original plan.

Mr. RAKER. It is not constructed; you have not diverted the water?

Mr. EATON. Yes; the water has been diverted by the city, partially for power purposes, up there in the tunnel they are building.

Mr. RAKER. What I mean is, there is no dam built yet?

Mr. EATON. No; they could not until they got the water diverted out of the creek. They have pretty near a mile of tunnel to build; and as soon as they get the water out, then they will start to construct the dam.

Mr. RAKER. But it is in contemplation to use it?

Mr. EATON. Yes.

Mr. RAKER. You sti l own the land?

Mr. EATON. Yes; I still own the land, but I gave an easement to flood up to 100 feet on my land, which at that time they thought was all that was needed, but since then they found out they wanted more storage capacity, which is on my land. But that is not a matter that is in controversy at all. I hold this land and am using it for cattle purposes, and expect to use it for a long while.

The situation is this: I am here representing some interests in Owens Valley, not the city of Los Angeles. My interests are in Owens Valley. I do not own anything in the city of Los Angeles.

I was the father of this enterprise about 13 or 14 years ago. There were some lands necessary to carry this project out, and I sold them to the city. I irrigate about 10,000 acres there, and I am now personally interested in seeing this thing carried out, because a storage reservoir built there will help my land. It will provide storage water for the lands there, just as well as for the lands below, including some I own. I represent the Big Pine Water Association. There are 160 vested rights there, but a great many of them are small. But still a right is a right, whether large or small.

Now, for three or four years we were trying to get our water system improved, and we were not able to do it ourselves. The city of Los Angeles wanted to get power there, so that we made arrangements with them if they would assist us to conserve the water by building an impervious conduit, we would waive our objection before the water commission to the use of that stream for power systems. They came through and agreed to give us $45,000 for that purpose and agreed to build the reservoirs.

Now, the way I am interested in this is the chief power engineer of the city notified me—there was opposition to the city's bill before Congress. I never knew there was a bill before the House; I had never heard of it and never read it. He said, "We have a bill before the House to carry out the work we contemplate doing up there in the valley, and this contract you want us to make and close up with you might be held up by it, because if we do not get that through, we can not afford to build a two and a half or three million dollar transmission line to carry the power from Big Pine Creek, on which

there is about 10,000 horsepower." And he said, "We have to build the reservoir within three years, that is to provide a certain amount of storage, which will cost us quite an amount of money, and if we are held up on this, we might not be able to carry out this contract."

So that I immediately went up to Bishop to see what was the matter. I never heard of this bill, and had never seen it; in fact, no one ever saw it, except Mr. Dixon. They signed a protest here, without knowing what they were protesting against, until we found the bill. And then we went over it. But so far as my people are concerned, we are pretty well agreed we want this thing carried out.

Mr. RAKER. Do I understand, Mr. Eaton, that your interpretation of this bill is in substance as we interpreted it before you spoke a little while ago, that this covers all the land in those counties and gives them the right of way if they want it?

Mr. EATON. I have not looked into that feature of it at all. These gentlemen have. That is the point Mr. Dixon raised here, which I have not considered. I am more interested in the effect upon us of the city carrying out this plan. When they carry out the plan which you gentlemen gave them in the right of way, we are going to get storage waters which we have been seeking there for years and years. That is all we need.

Mr. RAKER. Have you a contract now with the city of Los Angeles?

Mr. EATON. No, sir; I have not a contract with them.

Mr. RAKER. Are there any arrangements between you and the city officials in regard to storage water on your land?

Mr. EATON. No, sir; they have never even asked to purchase it.

Mr. KETTNER. You just stated you gave the city of Los Angeles an easement.

Mr. EATON. To flood the lands up to a 100-foot elevation.

Mr. KETTNER. And then they changed and wanted more?

Mr. EATON. Afterwards it developed they wanted to develop power there, and they wanted more, and they applied to the Government and acquired up to a 150-foot elevation.

Mr. KETTNER. And that took how much more of your land?

Mr. EATON. Really, I have never estimated the area.

Mr. KETTNER. Just give us an idea.

Mr. EATON. The reservoir floods 8,400 acres, and they got some from the Government. Now, I own this land under the 100 feet, and if they go above that elevation 50 feet, as proposed, they will cover a total of about 6,000 acres of my land.

Mr. RAKER. That they will flood?

Mr. EATON. Yes.

Mr. RAKER. Have you agreed upon a price at which you will sell this land to the city?

Mr. EATON. They have never asked me. If they want to flood it, they will have to pay me, sure.

Mr. KETTNER. But they are going ahead, expecting to put up this 150-foot dam without any contract with you at all for the extra land?

Mr. EATON. They have no contract with me for the extra land; they have never asked me a price on it. I supposed when they got ready they would.

Mr. RAKER. What is this matter the engineer telegraphed or wrote you about that would hold this up?

Mr. EATON. That is way down on Big Pine Creek. This land we are talking about is up in Long Valley. I have a ranch on Big Pine Creek. This is about 55 miles from Long Valley. I organized the company there to preserve the water rights. I was the sole arbitrator in the adjustment of the water rights on this creek. The people asked me to fix their water rights up and I adjusted them and formed this organization, and then the city applied to the State water commission for permission to develop power on this creek, and in order to get our consent the city agreed to give us $45,000 to pay for the work necessary to conserve this water, so as to insure a storage supply in all seasons. So that you can see if they were not allowed to develop the power in the gorge, about 50,000 horsepower, the transmission unit cost for the Big Pine alone would be prohibitive. The run-off must be equaled by the storage if used for power. Otherwise there would be a million dollars' worth of profit going to waste. It is also necessary to build this reservoir to lay up storage for dry years. You have to do that on any of the Sierra streams. In California there are droughts that occur every 20 or 30 years that extend over five or six years. This reservoir would enable the city to provide against them, because it is of very large capacity. For that reason it was decided to build it up to 150 feet. When they first went in there 15 years ago they did not know anything about the power resources of the country. I knew about them, but at that time it was not considered profitable to transmit electricity so great a distance. They said that the Government was surveying a 100-foot contour for the reservoir and they wanted that much storage. And they finally got me to give them an easement on the lands I retained.

Mr. RAKER. What did you give them, Mr. Eaton, a deed?

Mr. EATON. No; I gave them an easement, not a deed.

Mr. RAKER. You deeded that much originally?

Mr. EATON. I deeded a perpetual right to flood my lands up to to the 100-foot contour surveyed by the Government.

Mr. RAKER. What did you get?

Mr. EATON. I did not get anything. I sold what they wanted for just what I paid for it, and I took the cattle, horses, and personal property which, of course, I thought at that time was a nice little handsome profit.

Mr. RAKER. So that they paid you for this easement?

Mr. EATON. Oh, no.

Mr. ELSTON. You are talking away back when you first acquired this land?

Mr. EATON. They did not pay me; they have not paid me yet. They agreed to pay me, but they did not pay me.

Mr. RAKER. What is your attitude on this bill?

Mr. EATON. My attitude on this bill is to protect everybody's rights there; I want to see them protected, but I do not think the city wants to tread on anybody's rights. And my attitude is I want to see the city allowed to go ahead, because we will get the benefit from the storage of water. I represented the Big Pine Creek vested rights and I believe there will be a similar adjustment before the State water commission, when they come to provide for a storage reservoir in Long Valley. The city is now asking that commission to grant it the right to store water there, and all the people

with ditches there have protested against it, and we will have a hearing by the water commission on the protest of the people soon.

Mr. RAKER. Do I understand the prior claimants to the water all along these creeks above are protesting against the claim of Los Angeles to build this reservoir and take this water and use it?

Mr. EATON. They would not protest against Los Angeles taking the water and using it if they knew they were going to get some stored water. And that is the only way they ever will get any stored water. The cost of providing storage is too great for the irrigation to bear alone. The power created by this storage is of sufficient value to bear the expense in building the reservoirs.

The same thing is going to occur on Owens River as on Big Pine Creek. We get $45,000 for a small affair, and this is a big one. That stream is but a tenth of what Owens River is, and you can see what possibilities there are in this.

Mr. RAKER. What do you mean by that; the prior claimants to the water will get a certain amount of interest in the stored water?

Mr. EATON. Sure they will.

Mr. RAKER. By virtue of their prior rights?

Mr. EATON. Yes, sir.

Mr. RAKER. And that is what they are contending for now before the State Water Commission?

Mr. EATON. They have not had a hearing as yet before the State Water Commission; they simply have put in protests.

Mr. RAKER. You have a protest in to that extent?

Mr. EATON. Yes, sir.

Mr. RAKER. Do you, in any way, oppose this bill granting the city of Los Angeles the prior right to any and all locations for rights of way, ditches, canals, and so forth, that may be desired for irrigation?

Mr. EATON. I do not oppose for what I know they are going to do, because it does not matter to me. I know what they are going to do, and I am in favor of allowing them to go ahead and make those improvements on Owens River they are going to make, because we can not help ourselves and they will help us by giving us stored water. And that is what we want.

Mr. ELSTON. I suggest this, that we have an enlarged map here. We know what the effect of the bill is. It is to give a sort of blanket suspension over this territory in order that Los Angeles may put in locations and get their filings in. Now, these gentlemen here may want to have time to get in theirs before the time begins to run or something of that kind. I think, if the will, they should state distinctly what they want to have exempted. Let us see if we can not get right down to what they want exempted, and then we will see if they can not take the blanket, with those exemptions, as a matter of policy.

Mr. RAKER. I understand, Mr. Eaton, you have no objections to this legislation?

Mr. EATON. No, sir. I can not see where they are going to hurt anybody in this country, if you take care of the power company on Bishop Creek.

Mr. ELSTON. What power company is that?

Mr. EATON. That is the Southern Sierras.

Mr. ELSTON. How about Mr. Adams's company?

Mr. EATON. Mr. Adams's company should receive protection also for what it owns in there. I do not see how you will hurt it.

Mr. RAKER. This gives them a general claim to file all the rights they want for acqueducts, reservoirs, canals, and so forth. Do you mean that the City of Los Angeles should have that, as it is granted in the bill, or should there be some exceptions?

Mr. EATON. I do not know of any exceptions, except power companies, like Mr. Adams', if he needs any protection he should have it. Because he has a riparian right in there: he has a right there a mile long. He did not go in there to hold the city up; he was in there before the city. He intended to develop power, I think, for Goldfield.

Mr. RAKER. Are there any claimants in there for reservoir sites, by the citizens or various organizations for the purpose of irrigating that land that this bill would affect in any way, claiming to have a prior right there that this grant here would take away from them?

Mr. EATON. There is nothing contemplated. For instance, there is a reservoir site called "Fish Slough." The Southern Sierras power company bought some land in there, intending to build a reservoir. And take Bishop Creek over there: I objected to that, for our people below; I objected for the Big Pine Canal Co., of which I was president then. I said to Mr. Chappelle, who was president of the Southern Sierras Power Co., that his company did not own the surplus water of Bishop Creek. He offered to pay $80,000 if we would pay $80,000 toward constructing the reservoir. And that was discussed rather seriously. I did not object to paying $80,000 to get this storage, but I did object to Mr. Chappelle claiming that he owned that water. Long before Mr. Chappelle ever heard of California, we had been in there with the canals below.

Mr. RAKER. Would the granting of the right of way to Los Angeles for ditches, reservoirs, and all other necessary connections and their buildings, these reservoirs in Long Valley and the other places named by you, in any way affect prior claimants there who have been trying to build canals and reservoirs, and work them for local purposes?

Mr. EATON. I say they would affect them beneficially, because the city of Los Angeles can not build the reservoir without making satisfactory terms with us as to stored water.

Mr. ELSTON. Could we get this thing down to this basis: Would it be satisfactory to all interests (if we are going to give Los Angeles all she wants here and if it is not going to hurt anybody else, I do not see any objection to it), suppose instead of putting on this blanket, we say as to those people who have certain vested rights—we would not take those away, because section 3 goes in, and they are absolutely protected in the things they want to do—and suppose you put in an exception

Provided, however, That six months or a year be given to any claimant for any water rights on any existing projects—or what-not, in which to make filings for rights of way or what-not. That would cure the prospective part. It would then not be a blanket suspension which would cut out their rights, but give them six months in which to ramify and find out what they want, and, of course, with the Secretary of the Interior's approval.

Mr. OSBORNE. Do you mean to limit that to the rights already acquired?

Mr. ELSTON. Oh, no. I should say as to existing rights which they have. You have those. You have existing water rights. You want to get an outlet for those water rights and use them up to the limit, which is perfectly proper. There is a possibility that you might do that to the exclusion of others who wanted to do the same thing as to their existing rights. Now suppose you say, by an exception here, that as to any person who has any vested rights in water, water power, or what-not, they have the right to make their filings in order that they shall have their ramifications for their projects, without being kept out and barred by what Los Angeles has appropriated. Is that a feasible thing as to the existing projects?

Mr. MATHEWS. Not at all. We do not think you ought to legislate here except as to rights which have already been initiated; and not for future rights.

Mr. ELSTON. I am not talking about future rights at all. Those people have prospective water power projects that they want to develop. Now if they merely develop what they have; that is a way out for them. You people do not want to put this blanket on them in such a way as to stifle and block them.

Mr. MATHEWS. Not at all.

Mr. ELSTON. Now, you do not want to have first take in every way, in such a way as to throttle them; you want them to have their expression as to what you own. I am putting that up as the only objection they can have. What objection could Inyo County people have if Los Angeles wanted to blanket the whole State of California? Of course, if Los Angeles wanted to blanket the whole State of California, it would be a matter of public policy; it would not affect private interests if they came in there. But now here are certain private interests in there. On what basis did they to come in there? They are coming in on this basis: They have certain things now which they are entitled to develop to the fullest extent, and they want those protected in such a way as they can be protected, especially since Los Angeles is going to take something new. Now if those people have such projects, should not they at least have the start in developing their projects, than for Los Angeles to develop something which is a side issue with her and not a vital matter; because in answer to questions here you said those additional rights only affected 10 per cent of the power possibilities. You have 90 per cent.

Mr. OSBORNE. You are a lawyer and you know, so far as the carrying out of the city's plans is concerned, that such an arrangement as that would absolutely make it impossible. It could not be built for the next hundred years.

Mr. ELSTON. What I want to know is this: How would that interfere with the city, and would the city go on and interfere with them? What we want to do is to get a middle ground. We want some kind of ground for those people who have rights that do not interfere. I do not know what they are. These gentlemen state they have some local rights. All I want is to find out what those rights are and what ramifications they want and what would interfere with them.

Mr. OSBORNE. That suggestion, it seems to me, would be fatal to anything.

Mr. EATON. If I had gone on, in a few more words, I think it would have answered your question. You want to know what rights there are. I had to go over this history to show what the intentions of the

power company were, because they hold in the reservoir only 880 acres, in a reservoir that floods 2,900 acres as surveyed.

Mr. RAKER. What company is that?

Mr. EATON. That is the Southern Sierra Power Co. They own 880 acres in there, and we think it is a desirable place to build a reservoir. I am in favor of it and have been fighting with the people there who are in favor of it.

Mr. RAKER. Have they secured their rights there from the Government?

Mr. EATON. They do not own anything.

Mr. RAKER. Are their applications pending?

Mr. EATON. No, sir; Mr. Rowan made application up there years ago.

Mr. RAKER. Very well; they have no applications, no valid prior claims.

Mr. EATON. No, sir.

Mr. RAKER. And this would permit the city of Los Angeles to go in and make application?

Mr. MATHEWS. The power company, as I understand it, owns its lands there in fee.

Mr. EATON. The Rowan application is still pending.

Now, Mr. Dixon has always had some lakes up on Rock Creek. He has always said we can get some stored water up there, and he wants those protected, and there is an agreement between him and the city people which has not been consummated and which we want consummated. Before I came here at the request of the city, as an independent advocate of this thing, which I am, before I did that, I met Mr. Mulholland, chief engineer and the chairman of the water board down there, and demanded they give me a written statement that they would consummate this agreement and would take steps immediately.

Mr. RAKER. Consummate what?

Mr. EATON. This agreement.

Mr. RAKER. What agreement?

Mr. EATON. Between the city and ourselves, that we were trying to make some five or six years ago.

Mr. RAKER. To what did it relate?

Mr. EATON. The adjustment of our water.

Mr. RAKER. Where is it located; what is it called; what creek?

Mr. EATON. The waters of Owens River, the ditch water of the people who diverted water from Owens River.

Mr. MATHEWS. And all the creeks.

Mr. EATON. That is the Owens River and its tributaries.

Mr. RAKER. Has that been adjusted as yet?

Mr. EATON. It has been adjusted between the committee. Mr. Watterson is on the committee and I am on the committee of the people up there, and we adjusted the matter and a suit was brought which has hung us up for four years.

Mr. WATTERSON. It has not been consummated.

Mr. EATON. No; they have no written agreement.

Mr. RAKER. It is not consummated?

Mr. EATON. It was drawn up in writing, but we have it in the court.

Mr. RAKER. It is drawn up and signed?

Mr. EATON. No; it is not signed.

Mr. RAKER. It is not signed?

Mr. EATON. No; but Judge, let me tell you we want it signed and we passed a resolution there the other day at Bishop and sent a telegram that we were not in favor of this bill unless Mr. Mathews agreed to have this thing consummated by the board.

Mr. RAKER. Who signed that telegram?

Mr. EATON. This gentleman signed it and myself.

Mr. RAKER. Who is this gentleman?

Mr. EATON. Mr. Watterson. He is a representative of one of the ditches.

It was signed by Wilfred Watterson, acting chairman, and George Watterson.

Mr. RAKER. Did the city of Los Angeles answer that telegram as to what it would do?

Mr. EATON. I left there. I understand Mr. Mathews did. I did not bring those letters. I would not leave Los Angeles until they agreed to give me in writing their pledge they would do just what the committee up there did exact in writing.

Mr. RAKER. Mr. Eaton has stated now there is an agreement in which these people are interested, and he is a member of some committee there, with Mr. Dixon and Mr. Watterson.

Mr. EATON. Mr. Dixon is secretary of what is known as the "Associated Ditches."

Mr. RAKER. Can you give to the folks here the prospective telegram and the answer and the agreement, and will these people say that is satisfactory, what you have agreed upon?

Mr. EATON. Mr. Dixon did not vote for it. He was the only one in the meeting who voted no, and I signed this telegram to Mr. Mathews.

Mr. KETTNER. Don't you think we would make better time if we were to have Mr. Watterson get up and say what exceptions he wants in this bill?

STATEMENT OF MR. GEORGE WATTERSON.

Mr. KETTNER. You live at Bishop?

Mr. WATTERSON. At Bishop.

Mr. KETTNER. What is your occupation or calling?

Mr. WATTERSON. I am a farmer and stock raiser. I am interested in various enterprises. I am interested in a bank and other things.

Mr. KETTNER. You represent the ditch companies there now?

Mr. WATTERSON. Yes.

Mr. KETTNER. You are here representing the ditch companies?

Mr. WATTERSON. I represent the ditch companies; yes.

Mr. KETTNER. And the water users of Bishop and Inyo Counties?

Mr. WATTERSON. Yes, sir. I will explain this relegram Mr. Eaton refers to. We had a meeting of the Associated Water Committee of Bishop and sent a telegram to Mr. Mathews to this effect on the 28th of January: "Water users of Owens Valley object to the broad possibilities of pending bill and insist on protests unless we have your assurance that agreement reached by city representatives and people in 1913 guaranteeing our water and storage rights will be formally and promptly accepted and stipulation by city. We do not object to ratification of occupied aqueduct right of way or of power rights of way. If willing to give such assurance, wire us definitely and we will advise Public Lands Committee."

That was signed by W. W. Watterson, W. R. Ford, Wm. Symons, Harry Shaw, George Watterson, Charles A. Partridge, and Fred Eaton.

Now, then, we got an answer immediately from Mr. Mathews to this effect:

Telegram yours and six others on Los Angeles bill measure before House Lands Committee is Senate 4023 as amended and restricted on recommendation of Departments of Agriculture and Interior and passed by Senate May last. Same will not change or affect situation regarding rights of city or water users of 1913. City stands by agreement you mention and will promptly and formally accept and stipulate same. Your wire withdrawing protest and waiving hearing should also bear name of Will Farrington, Dixon, and as many signers of protest as practicable, and should be sent by to-morrow, Thursday night, in duplicate, to Public Lands Committee and Congressman Raker.

That is signed by W. B. Mathews.

After we sent this message, and about the time we got the answer from Mr. Mathews, we got the bill in the meantime, and in reading the bill we understood it better, or thought we did. But it seems the bill is very vague and carries so much we do not understand it now, except this: It appears to cover everything in Mono and Inyo Counties, and we object to that, because that puts a blanket on and ties up anything we want to do.

According to the rulings of the Secretary of the Interior, all of our pending applications, no matter how far back, were disregarded and preference given to the city of Los Angeles. We do not object in any way to the city perfecting their power rights along the aqueduct and to the aqueduct, or anything of that kind. That is all below our use of the water. And we do not object to this Long Valley Reservoir. That, probably, we think would be a benefit to us there. But we do object to their covering the whole thing and not giving anybody else a chance. We do not see what right the city of Los Angeles has to come in and cover everything to the exclusion of everybody who wants to build a ditch. According to this bill, and according to the interpretation and rulings of the Secretary of the Interior, we were not able to build a ditch or a power line, or to do anything on the public land; not able, really, to do anything.

Mr. ELSTON. Without this act, Mr. Mathews, are you entitled to go before the Secretary of the Interior and to make application for rights of way and power privileges to lead out from any water you appropriate?

Mr. MATHEWS. Yes.

Mr. ELSTON. You have the same rights as a corporation or an individual right now?

Mr. MATHEWS. Absolutely.

Mr. ELSTON. If you have that right and privilege now, before the Interior Department, to ask for a full development by way of rights of way, to develop everything you have, why do you want this act?

Mr. MATHEWS. So far as the aqueduct is concerned, being a domestic water supply, it is necessary for us to have more than the mere land which is occupied by the aqueduct, because we have to protect that against disturbance or pollution.

Mr. ELSTON. I am speaking about the power.

Mr. MATHEWS. So far as the power is concerned, the present laws, I understand, would restrict us for power line rights of way to 50-foot strips. The act of 1906 did not so restrict us. Now, our power

transmission line from Owens Valley will be a double line; and you can not even build a single line on a 50-foot right of way and safeguard it, because the towers will be 60 or 75 feet high at times; and then, if you build a double line, you have to build them so far apart that if one keels over (and they do keel over in that country; we have seen them down for miles) it must be far enough away that it will not fall on the other line.

Mr. ELSTON. Of course, if that is so you do not need any enabling act to obtain all these additional rights of way, because you have a right to file applications before the Interior Department right now; and the only effect, therefore, might be that to deny you a right would deny others of what Mr. Watterson says would be their rights. In other words, that blanket proposition is the vital thing; if you have no objection to giving other people free expression, inasmuch as you have that right now, why not confine your bill to two things, the ratification of the departures, and then the amending of the act, so as to give you a 250-foot right of way. Now, I am just putting that in order to bring up clearly the essential thing this gives you that you have not the present right to do.

Mr. MATHEWS. We have the present right to apply, under the general law, but I say it is inadequate.

Mr. ELSTON. Inadequate as to which?

Mr. MATHEWS. Inadequate either for a private company or a city for the purposes of a main transmission line.

Mr. ELSTON. Suppose you double the width?

Mr. RAKER. Give you 250 feet width.

Mr. ELSTON. That is really a new thought, which just came to me, because I understood up to now that you people were asking to get your rights of way as if that right was not a present right, anyway. Now, if it is a present right, you can go to the Secretary of the Interior, and it may simmer down so as not to deny you any right of way and prevent denying others their rights.

Mr. WATTERSON. We do not object to any rights of way for this project and power plants that they have on the Long Valley Reservoir and whatever they want to use. We do not object in any way to the storage of water, as long as our water rights would be protected; but the main point we lay stress on is this, that it gives them a blanket lien over the whole country. It is no use for us to go into the question of water rights, and what we have and what they have; that is not here. That is for the laws of the State of California. But it is to the use of the water rights; there is not any use in excluding the right to the water, but what is the use of the water rights if they use the water in a storage reservoir or ditch somewhere, and according to this bill it cuts us out entirely.

Mr. ELSTON. How? You know where the Los Angeles rights are, and they can not get anything additional.

Mr. KETTNER. It seems to me this bill would stop them for four years.

Mr. WATTERSON. We were held up for four years. If we can not get a right of way for our water, what is the use of the water? And while we are struggling for the right of way, waiting until they determine what they want or do not want, our rights have lapsed. And that has been the effect of the bill of 1906, which covered us up. Now the provision of the bill of 1906 reads clearly in protecting any

pending rights of way, provided, however, that this act shall not apply to nor affect the adjudication of any pending applications for rights of way by the owner or owners of existing water rights. And here is an extract from a letter from the Interior Department, in answering a communication from the mayor and other officials of Los Angeles about some applications for a right of way that they wanted at that time. Here is what the Secretary of the Interior says: "Therefore, all applications for rights of way which are on file and which may be filed and which conflict with any application filed by the city of Los Angeles, or affect any of the withdrawn lands, will be suspended for the period mentioned" (I presume the period mentioned in the bill) "unless the city consents."

Mr. ELSTON. You mean even a pending application?

Mr. WATTERSON. A pending application.

Mr. KETTNER. That is the attitude the Interior Department took under the act of 1906.

Mr. WATTERSON. Which are on file, and which may be filed, and which conflict with any application filed by the City of Los Angeles, will be suspended for the period mentioned unless the city consents. Of course, the city would not consent. If they get this blanket lien they would hold on, may be for two years, or four years, or six years from now.

Mr. OSBORNE. Does not that mean——

Mr. WATTERSON. I presume it means exactly what it says, but here is a copy of the letter from the Secretary of the Interior—will be suspended for the period mentioned, unless the city consents.

Now that is the objection we have to this bill, and we could get rid of it in short order if the gentlemen would not want to grab everything. We are willing they should have all the water they need for Los Angeles, and all the power they need.

Mr. OSBORNE. The question I want to ask about that is this: Is there nothing in the law—of course, I have never seen the law—is there nothing in the law which will indicate that refers to claims that have arisen since the city had its right granted to it?

Mr. WATTERSON. No, it does not. And we know that is how they apply it.

Mr. OSBORNE. It refers to claims that were protected under section 3 of the act?

Mr. WATTERSON. Certainly; and that was the action of the Interior Department throughout.

Mr. KETTNER. What I would like to have Mr. Watterson bring out, if he can, is what he wants the city of Los Angeles to exempt; what ditches up there. What is it you want taken out of this bill, and let us see if we can agree.

Mr. DIXON. Excuse me for interrupting at that particular point, because I feel that it can not be answered without going into details which will require some little time. And I would like to have a copy of the record in order to answer that question. I think we need more time to prepare that statement.

Mr. ELSTON. Do you think that is necessary?

Mr. DIXON. There are statements made here that must be answered.

Mr. WATTERSON. We want them to state specifically what they want, and then perhaps we will have no objection to it.

Mr. CHURCH. That is just the point I was going to make. Why should not this bill be specific on the part of Los Angeles, and let it say what it wants, and not to leave it to the whims or notions of the Secretary of the Interior or any imaginations of the future. Let them ask for what they want; then those who have objections to this request can make them and can come in and present their objections, can say what rights they have as against that, and we can pass on it. But to make it so general as it is here, it is going to throw a shadow over every household in that country, which I do not think is right.

Mr. RAKER. Under the prior bills there were withdrawals made?

Mr. WATTERSON. Yes.

Mr. RAKER. Within the forest reserves excepted?

Mr. WATTERSON. Yes.

Mr. RAKER. The practical question is, Was even homesteading and entering desert lands and making any ditches suspended during all that time?

Mr. WATTERSON. Absolutely.

Mr. RAKER. And you are afraid of that under this bill?

Mr. WATTERSON. Yes; that is exactly what we are afraid of.

Mr. RAKER. Has not Los Angeles made a specific statement of what they want, and where they want it?

Mr. WATTERSON. No; because it covers Owens River Basin, which consists, I think, of 2,810 square miles, according to the statement of the Los Angeles engineers and of Mr. Mullholland.

Mr. RAKER. The bill covers Inyo, Mono, Kern, and Los Angeles Counties. Right in that connection, let me ask Mr. Mathews if he could state what he wants.

Mr. MATHEWS. That is absolutely impossible.

Mr. CHURCH. And it is absolutely impossible for us to legislate, I should say.

Mr. MATHEWS. The old act is in the same situation. You can see how it is impossible for the city to do that. For instance, take Big Pine Creek. There is where the city is about to go into a project that will involve an expenditure of several hundred thousand dollars; I think, two or three hundred thousand dollars. Now, if we should get this legislation, we will enter into a contract to pay the local people the $45,000 toward improving their distributing station, so as to reduce the waste, and to build the storage on the creek, which we would depend on for power purposes only. The irrigators would get all the water. Now, the money for building storage reservoirs we will get from a bond issue, and as to the proposed reservoir in Long Valley, on Owens River, we will seek to enter into a similar arrangement with the people of the valley under which we will build the dam, and they will get the benefit of the storage and we will get the power. But we will not do that unless we can make an agreement with them, and we will not get the money to do it unless we get such an agreement. It depends on where we can make the storage arrangements with the people who control the water situation that will permit us to build the dams and to impound the water that will enable us to carry out our plans. It will depend on that as to what money we will get from the people for carrying out our projects, and we can not tell where we shall be able to make arrangements with the owners of water rights for the construction of storage reservoirs.

Mr. WATTERSON. The old bill covered lands asked for in Inyo, Kern, and Los Angeles. The new bill goes into Mono County, takes all of Mono County, with the exception—no, I won't say it takes all of it, but it takes all of Mono County that is in the Owens River Basin, where there is the source of our water supply.

Mr. RAKER. It takes all of Mono County except the drainage into Mono Lake.

Mr. WATTERSON. No; there is part of Mono County north of Mono Lake which runs into the river.

Mr. RAKER. It does not make any difference where it is; this says it takes all of it.

Mr. OSBORNE. It takes a very small portion of Mono County.

Mr. WATTERSON. The bill says——

Mr. OSBORNE. It does not exclude it.

Mr. WATTERSON. It does not exclude it. It says the Basin of Mono Lake. It includes it, then. That makes it broader than I thought. It takes in all the headwaters of Walker River, in the northern part of Mono County, too. They might have some objection.

Mr. MATHEWS. To avoid a misunderstanding we are perfectly willing to take that out. The Secretary put that in there on his own suggestion; not from us, and we are perfectly willing to take that out.

Mr. OSBORNE. There is no reason on earth to take water from the Mono Basin, because it does not go into Owens River.

Mr. ELSTON. It is very obvious you have no rights there, because you could not utilize it.

Mr. OSBORNE. The river flows northeast.

Mr. KETTNER. You will admit that should be taken out, then?

Mr. OSBORNE. It should be more explicit. The southern end of Mono County, when you cross the divide there, called Mono Lake, I presume it would take that in, but that was not the intention.

Mr. WATTERSON. It takes all of it. That is our main objection. It is very well to say we will take just what we need, but people do not always stop at taking just what they need if they have the power to take it all.

Mr. ELSTON. This new interpretation with regard to the kinds of rights of way to be obtained in the bill, as compared with the rights of way which can be obtained right now from the Secretary of the Interior, is an important proposition. I think Mr. Mathews might just make a very short statement about the fact this bill gives irrevocable rights of way, whereas by act of the Secretary now, he gives revocable rights.

Mr. RAKER. This gives a grant in perpetuity, a grant of the land.

Mr. ELSTON. I think Mr. Mathews should state why that would be a better proposition.

Mr. MATHEWS. Let me add this, as a practical illustration. They mention here the proposed agreement between the city and the local people to settle their water rights. Just to show you what difficulties we labor under down in Los Angeles, because our troubles are in Los Angeles—we get along with the people in the valley—certain interests in Los Angeles brought suit against us to prevent us from consummating that agreement, and that is now pending. Some people there even brought suit against us to prevent our bringing water from Owens Valley down there. They were generally understood to be acting in the interest of a power company that did not

want us to bring the water down, because that meant the development of power. Everything we do is subject to obstruction by so-called taxpayers. There is a particular reason why we want permanent and wider rights of way. We have, for a municipal project, to get money by bond issues authorized by a two-thirds vote. The power companies go to the people and say, "Los Angeles wants the people to burden themselves for a long term of years by voting money to build projects on rights of way which are limited in extent and which will expire, and you should not do it." It is practically impossible to get the people to come across with the necessary two-thirds, where we have rights of way for a great public work, that does not meet the views of any considerable number of citizens as to what is suitable for a municipal project.

Mr. RAKER. I appreciate that situation, but in doing that the people in Inyo, Owens, and Mono Counties, and these related claims, as the farmers' ditches, canals, etc., ought to be given just a chance for their white alley, and we ought not to blanket them so that they are practically out of business. I understand from Mr. Mathews that is the intention, not to do that, but these other people are afraid of it.

Mr. OSBORNE. I want to add to what Mr. Mathews has said in regard to the difficulty of voting bonds, that, after they are voted, you have to go to the capitalists in New York to sell your bonds, and if your bonds are based upon a lack of ownership of the land, or revocable permits, and so on, you can not sell them.

Mr. WATTERSON. I appreciate the difficulties, as stated by Mr. Mathews, full well; but we think he can get around that without putting this blanket on which we have such strenuous objection to. We are quite sure Mr. Mathews can fix it up all right if he tries to. Then there is just one other point I was going to make, a quotation from the first report published of the aqueduct work, which was published by the city engineer of the city of Los Angeles, to show their feeling and how they try to cover it up there. They do not give us any show to have anything, if they can help it. Mr. Mathews is very liberal at times, but some way it never comes through. That agreement he speaks of, we signed it and their representatives signed it, and, since that was signed the city was enjoined by an injunction, and it has been six years now. We think that if that agreement had not been signed, maybe we would not have had this trouble. And I just want to make a quotation now from a report on the aqueduct, to show the disposition. They go on and state what grants they have and various things from the Interior Department, for the land they have bought, and from the Forest Service, and such like, and say—probably acting largely on the request of the city of Los Angeles, the Forest Service extended the boundaries of the forest reserve well down into Owens Valley, and then the forest-reserve law will permanently prevent the taking up the public lands there are in this district. Now, that is the disposition shown by them all the way through.

Mr. ELSTON. That is in their watershed.

Mr. WATTERSON. It is in the Owens Valley watershed. Probably acting largely on the request of the city of Los Angeles, the Forest Service extended down into the sagebrush, and prevented settlers from taking up lands there. We do not want to stop them from having the acqueduct and all the water they need for the city; we want them to have that and to have all the power they need, and to generate all

the power possible. We are glad to see it, because it helps to develop our country. But I say our objection is to putting a blanket over the whole country and telling all of us "you can not build a ditch through the Government land, or get a right of way for a railroad," or anything of that kind. That is unfair; that is unjust.

Mr. ELSTON. Do you say the legal effect of this bill, if passed, will be to suspend every application for a ditch or right of way for any kind of outlet of any kind, so long as Los Angeles had not finished the rights she had under the act?

Mr. WATTERSON. That is our contention exactly.

Mr. ELSTON. In all these counties?

Mr. WATTERSON. In all these counties.

Mr. ELSTON. As to any kind of crossing of Government land for any purpose?

Mr. WATTERSON. Exactly.

Mr. ELSTON. Mr. Mathews, do you grant that at all?

Mr. MATHEWS. No; we do not want anything like that.

Mr. WATTERSON. Nobody wants it.

Mr. ELSTON. Do you grant the legal effect of it is that?

Mr. MATHEWS. No; I do not.

Mr. DIXON. Let me interrupt there. There are phases of this question which can not be answered in a few minutes, but this particular point I wish to call directly to your attention, because it came to me as an official of the United States Government.

Mr. KETTNER. In what capacity?

Mr. DIXON. As registrar in the United States Land Office, between the years 1906 and 1910.

Mr. KETTNER. Located where?

Mr. DIXON. At Independence, Cal. In relation to the statement that was just made in regard to rights of way, every pending application for a right of way which was supposed to be guaranteed by the act of June 30, 1906, under section 3, specifically, was held up in the department for three years under this order of Secretary Garfield, which has been quoted. I have not a copy of the law in full. And subsequent to the expiration of that time practically every application for right of way has been denied under the ruling of the department and the Geological Survey, that our rights of way on our reservoirs were more valuable for power than for irrigation. I will say that subsequently, in relation to one of the reservoirs on which I filed on behalf of the community, which was held up in this manner, lately the department reversed its action. The record of that case I am not able at the present moment to present to you, but I hope to be able to do so. I have not been able to secure action on that application. The right was granted to another individual for the same purpose specified in my application, thereby shutting me completely out.

Mr. ELSTON. That has nothing to do with the Los Angeles proposition.

Mr. DIXON. I am calling your attention to the manner in which the law, not simply the act in favor of the city, has been interpreted by the department and to the way in which these storage reservoirs for which we have been applying, and which were saved by the act, were subsequently denied to us, thereby forfeiting our rights.

Mr. ELSTON. They were denied to you by judicial exclusion on the ground that the purpose for which you made application was not the best purpose for which they could be used. That is an abuse of discretion, but that will go on, whether we pass this act or not. You may make applications from now to eternity, and they will persist in calling them a power proposition instead of a water proposition, and you would be blocked. That is an administrative matter, isn't it?

Mr. DIXON. Yes, sir. I wish to call to your attention and possibly show the record, or call to your attention the specific cases where our applications for storage, which were protected under the act of June 30, 1906, in favor of the city were denied under the rendering of this decision of Secretary Garfield, in such a way that we lost our rights. And not only to the reservoir, but we lost our rights to the appropriation of the water. And if this act is now amended specifically as of this date, so that the new act shall protect all pending applications for rights of way on the 7th day of February, 1919, gentlemen, we have nothing to protect. We have been directly shut out from the public domain by the acts of the Reclamation Service by the rulings of the department under this act, and by the subsequent rulings that our reservoirs are more valuable for power than for irrigation, and we appeal to you gentlemen for such protection as we can secure.

Just what amendments may be necessary to that bill until we know the full text of the measure, we could not even propose. This matter came to us as an absolute surpise to our people about a week before this bill was to come up. About the 1st of January, we noticed a short article on the back page of the Los Angeles Times, calling attention to the fact that the hearing was to be had on some application of the city of Los Angeles. We did not know what it was. To ascertain the nature of it, we telegraphed to ascertain, and the reply was so meager, we could not judge of its nature, except it appeared to be of a similar nature to this. A copy of this bill reached us on the evening of January 13, and the hearing was set for the 14. There was absolutely no opportunity for us to set before you our needs, or our rights, or what we proposed. We simply sent in a protest until we could be advised as to what was being applied for, and we would know how to safeguard our rights. Subsequently, we called a meeting of our people, at which there were present three representatives of the city, Mr. Eaton appearing with Mr. Van Norman, Judge LaMar, and Mr. Shuey of the city.

Mr. RAKER. The city of Los Angeles?

Mr. DIXON. The city of Los Angeles, at which those questions were discussed, Mr. Van Norman stating, upon the advice of Mr. Mathews, that he would give us his word of honor that there was nothing in this new bill, or the amended bill, which gave the city or sought for the city anything but a right of way for a power line. Mr. Watterson was present and can affirm or deny my statement.

Mr. ELSTON. The right of way for a power line where?

Mr. DIXON. From somewhere on the river gorge to connect up with their present line, I suppose.

Mr. OSBORNE. Will you permit me to make an interruption right here? This bill, Senate bill 4023, was introduced in the Senate by Senator Johnson in March last year.

Mr. ELSTON. March, 1918, and it passed.

Mr. OSBORNE. Yes, it passed the Senate in May, and I introduced the same bill in the House at the same time. It had already passed the Senate. There was some objection made to the bill coming from Los Angeles, and it was my request that a hearing be had. There was not even a request for a hearing. I requested a hearing in order that all the people in interest might have an opportunity to be heard. That was widely published in Los Angeles and in California, in the daily papers there. I want to say that to show there has been no such restriction on information in regard to the hearing as Mr. Dixon seemed to think.

Mr. KETTNER. In connection with that, I wish to state I knew absolutely nothing about it, Mr. Osborne, until it was called to my attention by the people in Inyo County.

Mr. ELSTON. That is not an imputation against you, because it is simply impossible for a member to keep track of these things.

Mr. OSBORNE. Senator Johnson introduced the bill in the Senate over a year ago.

Mr. KETTNER. I simply overlooked the matter. It is my fault

Mr. ELSTON. I think Mr. KETTNER is inclined to take the blame, when it is not his fault at all, because no Member of Congress can keep track of 40,000 bills. Where they do not come before his own committee, he could not know anything about it.

Mr. OSBORNE. All I state is it was given a great deal of publicity in the papers of California.

Mr. DIXON. You understand, I am not imputing anything wrong against anyone, but here we are called before a House committee without a chance to gather our data in any proper manner. We get in the city one day and the next day we appear before the Public Lands Committee without an opportunity even of getting the records and producing the documents that might be necessary. Just what those documents were, yesterday morning we could not tell. We went to one office and expected to go to another, but were not able to get there before the office closed, and we were not able to get in touch with any one until 9 o'clock this morning. We could do nothing, except to present the general features of our case. There are features in this case which can not be gone into in a few minutes. the records can not be produced; it can not be shown how it affects our water rights, nor our storage reservoirs—it can not be presented in a few minutes.

Mr. RAKER. This meeting now is for the purpose of getting together, if we can, and reporting to the full committee some legislation that will protect Los Angeles and the people in Inyo and Mono Counties and in Kern and Los Angeles who may be affected, so as not to deprive either of their rights, as far as it can be done. If that can not be done, you will have further time to-day, to-morrow, and Monday before you go before the full committee. But I think if it can be done, this matter should be adjusted among ourselves; and we want to hear what you have to say with regard to the proper amendments that are necessary in this bill. The bill as presented, irrespective of what you might think of it, I think it is the consensus of opinion of all of us that it covers all the land in those counties and in those forest reserves and allows the city of Los Angeles a prior right for the rights of way and gives them four years in which to complete it. Now, as to that, what is your view?

Mr. DIXON. It conforms exactly to your statement.

Mr. RAKER. As to the effect on Mono County and your people?

Mr. DIXON. It absolutely puts all of our storage subject to their priorities.

Mr. RAKER. Having been the register of the land office, and knowing the practice of the department, under this bill if it becomes a law the department would withdraw all the lands in those counties for that purpose. Is that the fact?

Mr. DIXON. Judging from their past action, I would assume that would be the case.

Mr. RAKER. Then so far as applications for rights of way, storage reservoirs, and otherwise are concerned, there would be nothing done for four years while this matter was pending?

Mr. DIXON. That is my understanding.

Mr. ELSTON. Mr. Mathews combats that entirely. I think that is a rather drastic construction of that bill. If that is so (that is not according to my theory), it would prevent a man putting a little ditch through the land for anything. I think that is a violent construction of it at this time; that they want to block these counties and to block everything of any nature; and Mr. Mathews disavows that.

Mr. MATHEWS. You can put in the bill any language contrary to that idea.

Mr. ELSTON. If the bill has that effect?

Mr. WATTERSON. It has that effect.

Mr. DIXON. If Mr. Elston deems it necessary and you deem it necessary, I could produce the records to show that applications for rights of way for ditches across the public domain were absolutely denied.

Mr. ELSTON. Now we have this matter down to this place where Mr. Mathews says that is not going to be the construction. If that is the construction, if your construction makes it that way, you write that bill so that it will not be. So I would not address myself to that point any more.

Mr. RAKER. Is there any method by which, as I understand it now, the city of Los Angeles could specify what it needed and wanted to complete, what is needed for its power systems, and its canals and rights of way for power lines, conduits, and reservoirs, to fully protect them without making it general?

Mr. DIXON. From our standpoint, you mean?

Mr. RAKER. Yes; from any standpoint.

Mr. DIXON. I do not think I would answer from Mr. Mathews's standpoint.

Mr. RAKER. No.

Mr. DIXON. It is possible that such specifications could be made; but just what they are, and just on the spur of the moment for me to name those specifications is very difficult, indeed.

STATEMENT OF MR. EDSON F. ADAMS, SAN FRANCISCO, CAL.

Mr. RAKER. Give your name and residence to the stenographer.

Mr. ADAMS. Edson F. Adams, resident of San Francisco. My business is in Oakland, Cal.

Mr. RAKER. Go ahead and make any statement you desire in regard to this bill and the matter covered by it.

Mr. ADAMS. The thing that occurred to me, and I would like to ask Mr. Mathews a question, following up what has already been stated?

Mr. RAKER. You may.

Mr. ADAMS. Would you not be fully protected, Mr. Mathews, if the present laws in relation to rights of way and reservoir sites and the rules and regulations governing the disposition of the public domain, by which private corporations now get their rights, were, as far as the sights are concerned, so amended that the Secretary would grant permanent rights? That would clear up this situation. You would then have the same rights as corporations to go in on the public domain, and you would get the permanent rights under the present laws instead of revocable rights, which you spoke of. I think that would clear this matter up, together with the ratification of your right, which you should have to the actual land upon which the acqueduct is located.

Mr. ELSTON. How about the extension of the width of the right of way?

Mr. ADAMS. That would not make any difference for this reason: I am in the power business over in Nevada and I know in connection with the power lines of other companies a 60,000-volt line must be kept a thousand feet away from the telegraph, telephone, or any other line of another company, on account of induction. Now, they could not put two within 250 feet, because this line would have to be at least a 100,000-volt line, in order to carry to the city of Los Angeles. Therefore they would have to put it at least a thousand feet away, and that matter would be taken care of by the same regulations usual between companies.

Mr. ELSTON. They say they would have to put up two lines?

Mr. ADAMS. They could not put them together, because on account of the inductions from a 60,000-volt line, the regulations between the companies make you keep away. They never put them less than a thousand feet apart unless they cross at right angles.

Mr. RAKER. Now, Mr. Mathews, what have you to say in regard to the suggestion of Mr. Adams?

Mr. MATHEWS. Some of these gentlemen here can testify to the fact that I have appeared before the Water Power Committee and asked the committee to include in its proposed legislation provision for permanent rights for municipalities and States. I proposed the amendment in formal shape for them to consider. I attempted to carry out the idea, so far as the proposed general legislation was concerned, that Mr. Adams has suggested. I was unable to do so; the committee in their wisdom saw fit not to adopt my ideas. And we are here now because I understood the general legislation was not getting on nicely before Congress and it was the attitude of those who had knowledge of our measure that we should have relief and if we could not get it under general legislation we would have to take chances on a special bill.

In regard to the other point about rights of way, our experience and testimony in cases we have tried, shows you can put two high function lines on 150 foot rights of way, carrying 100,000 volts. That question came out in litigation in Los Angeles County, where they were condemning a 150 foot right of way, and the engineer's testimony showed, on the question of the necessity of separating two lines

carrying a high voltage, we could get along with a 150 foot right of way.

Mr. RAKER. Then your contention is you can run lines parallel with in the 200 foot right of way, carrying 150,000 volts?

Mr. MATHEWS. Sure. They do it in the cities; they run a 100,000 volt line right through the city Los Angeles within 20 feet of telegraph and telephone and all other kinds of lines—150,000 volts.

Mr. RAKER. Go ahead, Mr. Adams.

Mr. ADAMS. I will state in regard to rights of way that the Mono Power Co. had the same trouble, that has been spoken of here, under the bill of 1906. We and our predecessors were in the Owens River gorge long before the city of Los Angeles. We applied for a right of way and our application was held up by the Secretary of the Interior. The Mono Power Co. then appealed to President Roosevelt, and he appointed former Forester Gifford Pinchot, and Charles Walcott, formerly of the Geological Survey as a commission to investigate the Mono Power Co.'s rights. They reported to the President that the applications should be granted at once and stated we were there and properly there; but we were held up, and it took us months and months before that could be accomplished. I just mention this to show you it is not any thing new.

To get down to what I think of this bill, unless there is some general bill that applies to this matter just mentioned, section 3 should remain in the law; that is, it should not be revoked and then reenacted again, but it should remain in the law so that the vested rights, which come under that act should remain so that there could be no question about its being repealed and reenacted back again. There are rights in force under that original act, which would come right on through without a break. Therefore it should not be changed.

Mr. MATHEWS. I see the point, and we stipulate that should be done.

Mr. OSBORNE. I want to say that in general we have been waiting for this general power bill in the hope that it would carry the grant. But it has gotten into conference and it looks as though it were not going to pass, and that is the reason we took this bill up again.

Mr. ADAMS. I think in addition to the old section 3 remaining in force, and not even being removed, we should also have an amendment protecting the projects that are now in existence. Take the Mono Power Co.: They desire to go across certain pieces of property of the Government. Of course you might say that they ought to have applied before. But this is an open mesa, sage brush country, open country, that a goat could not live on, so that nobody had any idea they were coming in and asking for a general grant so that they would have the right of selection which may be for a period of four years, and should we apply to the Secretary of the Interior, we would say: They have the right of selection; we have not got the title; we can not do anything; we can not condemn; our hands are tied. My theory is, there should be something like this inserted after the word "State" in line 2 on page 3:

And provided further, That the grant hereby made shall not apply to any lands included in any project of any person or corporation for the development of hydro-electric power upon the Owens River shown upon any map or maps filed with the Secretary of the Interior within six months of the date of the passage of this act, and upon which project work has been prosecuted since June 30, 1906.

Mr. MATHEWS. You appear here representing certain power companies, do you not?.

Mr. ADAMS. I represent the Mono Power Co., and am a large stockholder and also represent the company, and have authority to do so.

Mr. MATHEWS. I recognize you have certain rights and interests.

Mr. ADAMS. You admit we have those rights?

Mr. MATHEWS. Yes; we have been negotiating for the purchase of them. When did your project start?

Mr. Adams. It started before this date, before June, 1906.

Mr. MATHEWS. About what year?

Mr. ADAMS. It was a little before the Mono Power Co. matters came on for the first time.

Mr. MATHEWS. It started something like 15 years ago, did it not?

Mr. ADAMS. Maybe so.

Mr. MATHEWS. You have not yet developed any power on the stream?

Mr. ADAMS. No, but we have done work there and we have expended large sums of money. And when I say large sums of money, I mean something over $300,000.

Mr. MATHEWS. We recognize the right of those folks and Mr. Adams is a responsible man. You will permit me to say that. But you can see how a project running along for 15 years might run along for sometime longer, and you can't tell whether it is going to materialize or not. And I respectfully suggest congressional legislation should not be framed to meet the contingencies of a project of that kind, that may or may not materialize. We are perfectly willing the bill should be drawn to specifically protect all their existing rights, but it should not be framed to cover all rights that may arise in the future.

Mr. ELSTON. In that connection this amendment would precipitate action on their part in six months, whereas you have four years. Of course you have had power possibilities for 15 years, possibly, several of which you have not developed there and which have laid dormant. Under the bill you will have a four years' indefinite hold, and for these isolated projects Mr. Adams speaks of, they will have but six months within which they can designate and file, and thereby release.

Mr. MATHEWS. Mr. Adams will have his right to make application for rights of way under the existing acts, as he has had for some time. Years have elapsed without any application. I say if this bill gives us such right as will not be a bar to the filing and prosecution by them in the ordinary way of applications which may be filed by them under existing acts, and if they file an application, it shall not be suspended by reason of the fact, we have this general legislation, I think that is as far as we can go.

Mr. ELSTON. That is not a bad idea, because they have talked about this suspensatory feature with relation to the effect of this act. Now, if you are going to put in a clause here that nothing in this act contained shall suspend the approval of applications of any persons heretofore or hereafter made, just as freely as could have been made without the act, of course that puts them on the same level as you are now. Each of you could now file contradictory applications.

Mr. MATHEWS. And take our chance?

Mr. ELSTON. And take your chance.

Mr. RAKER. Mr. Mathews, under the present law there authorizing you to apply for rights of way for conduits for telephone and electric

lines, reservoirs, power plants, etc., have you made any application to the Secretary of the Interior or the Secretary of Agriculture for a conduit to Los Angeles, between the intake and Los Angeles, for any of these additional rights up to the present time?

Mr. MATHEWS. Yes.

Mr. RAKER. They are on file?

Mr. MATHEWS. So far as we have built we have gone and gotten what wo could, so as to be permitted to build. We have built four or five million dollars' worth of works under these revocable claims.

Mr. ELSTON. Mr. Raker, I have an engagement, and I will have to leave, and this hearing can not be concluded shortly, any way——

Mr. RAKER (interposing). I think I can close this up in a moment or two. I asked him if there was any application on file with the Department of Interior or Department of Agriculture for additional claims for conduits, telephones, or electric lines, power plants, etc., between the intake and Los Angeles, and he says yes.

Mr. MATHEWS. Not all of them. We have been building, and so far as we have built we have applied.

Mr. RAKER. So far as you have built you have applied?

Mr. MATHEWS. Yes.

Mr. RAKER. You have not applied for any new ones not yet constructed?

Mr. MATHEWS. No.

Mr. RAKER. Have you any application on file for reservoir sites, conduits, rights of way or otherwise, either with the Department of Agriculture or the Department of the Interior, above the intake in addition to those that have been granted under the act?

Mr. MATHEWS. I do not think we have. I do not recall any.

Mr. RAKER. I was thinking if that was done, this legislation would be all off.

Mr. ELSTON. Mr. Mathews said that could not be done and referred to the filings they could make on various groups of property, and they have paid for those arrangements to be made.

Mr. RAKER. Is that all remaining open, Mr. Mathews, this public land, whether you or some one else should file on it?

Mr. MATHEWS. We have not tied it up.

Mr. ADAMS. I just want to answer one statement, and then I can go on to-morrow morning if I have anything further to say. I desire to answer a statement made by Mr. Mathews in asking me how long this project had been in operation—how long it had been going. I wish to say this in reply, that in the beginning our applications were held up, so that we could not proceed by the Government of the United States on account of the city of Los Angeles coming into that district. That was one difficulty. By the time that delay was over, the business of Tonopah and Goldfield had been secured by another company, which had prompt action on its applications, and the result was after a large expenditure of money we were prevented from taking our share of the business. Since then I formed a company and leased the United States Reclamation plant at Lahontan, the Truckee-Carson project, and have been developing a power business that will soon enable it to utilize the power generated by the Mono-power Co.

In addition to that, my company, like Mr. Mathews, finds their plans and rights of way have to be changed and we commenced a suit

against Los Angeles, a condemnation proceeding. And instead of their coming in and trying it in the courts adjacent to the land they took advantage of a new act of California which allows a municipality to go outside of the county in which the land is located for a trial of the case. That question was taken up by the court and decided adversely to Los Angeles by the superior court, and they appealed to the appellate court, and the appellate court confirmed the contention of Los Angeles. But this is of quite recent date. At the same time we have been working right along on our project, we have never stopped a day.

Mr. RAKER. I suppose these people would like to look up something, and we could adjourn now for a conference again to-morrow morning.

Mr. MATHEWS. Suppose we do get an amendment worked out that is satisfactory to the committee, which obviates this difficulty; that is, that applications under the present general act by the valley people for such rights of way as they want for any purpose, reservoir sites, or any other purpose, such applications will not be suspended, nor the right to make applications and prosecute them in the regular way, as at present, shall not be suspended by the fact that this bill should become a law and the city has gotten what is here termed as a blanket privilege or right under the terms of the act, could we come to an agreement so that we could know, if they can go ahead as at present?

Mr. ELSTON. And take your chances on conflicts?

Mr. MATHEWS. No; we would take our chances under the new law?

Mr. ELSTON. You take your chances on conflicts?

Mr. MATHEWS. Yes. Will that obviate all objections of the associated ditch owners of the valley?

Mr. WATTERSON. We would not be prepared to answer that immediately. As I understand you, your proposition is, that any pending rights of ours would not be interferred with?

Mr. MATHEWS. No; I am speaking not only of pending but of future applications. I am not trying to tie the valley up, neither on pending nor future applications.

Mr. WATTERSON. I do not get it fully, what Mr. Mathews has said.

Mr. KETTNER. I think it would be almost impossible for Mr. Watterson to decide. If you would put it in writing——

Mr. OSBORNE. What he wants to know is if the companies come to an agreement, if they will be working to any purpose.

Mr. WATTERSON. Oh, I think so.

Mr. DIXON. I think we would like a little time to confer over that proposition.

Mr. OSBORNE. But would you not like to have an agreement on this proposition?

Mr. DIXON. Yes; I would like to have an agreement, of course.

(Thereupon, at 1.15 o'clock p. m., the conference was adjourned to to-morrow, February 8, 1919, at 10 o'clock a. m.)

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WATER SUPPLY OF LOS ANGELES, CALIFORNIA

HEARING

BEFORE THE

COMMITTEE ON THE PUBLIC LANDS

HOUSE OF REPRESENTATIVES

SIXTY-FIFTH CONGRESS
THIRD SESSION

ON

S. 4023

A BILL GRANTING RIGHTS OF WAY OVER CERTAIN LANDS FOR THE WATER SUPPLY OF LOS ANGELES, CALIFORNIA

FEBRUARY 8, 1919

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WATER SUPPLY OF LOS ANGELES, CAL.

COMMITTEE ON THE PUBLIC LANDS,
HOUSE OF REPRESENTATIVES,
Washington, D. C., February 8, 1919.

Further conference on Senate bill 4023, Hon. John E. Raker, presiding. Present: Representatives Kettner, Church, Elston, Osborne, and Randall; also Messrs. W. B. Mathews, George Watterson, Galen J. Dixon, Edson F. Adams, and Fred Eton.

Mr. RAKER. Now, gentlemen, we has a recess from yesterday to give you yesterday afternoon to work. Who has the matter to present first this morning? Have you done anything?

Mr. MATHEWS. I can submit some suggestions and see if I have covered in a satisfactory way what was suggested yesterday. One of the points mentioned yesterday, not only by Judge Raker but by Mr. Watterson, was the fact that the bill as it now stands would leave subject to the rights of the city, in case the bill should become a law, a portion of Mono County, north of Mono Basin. Turning to page 2 of the bill and in the last line and extending over the next page, my idea would be to make an amendment as follows. I will read it as it would be amended according to may suggestion, having reference to what I heard yesterday:

Provided, however, That the grant hereby made shall not apply to lands located in the drainage basin of Mono Lake or Kern River or northerly of the drainage basin of the Owens River, or upon Bishop Creek, or its tributaries, in Inyo County, in said State.

Mr. KETTNER. Does that exclude Bishop Creek?

Mr. MATHEWS. It expressly excludes Bishop Creek and its tributaries, and expressly excludes any land north of the Owens River Basin.

Mr. ELSTON. You had better cut out Inyo County.

Mr. MATHEWS. The reason I have Inyo County in there is that that is the language in the present law, with reference to Bishop Creek.

Mr. WATTERSON. I think Fish Slough should be left out.

Mr. MATHEWS. I might say that suggestion came to me very late last night, and covers something additional to be left out. I was under the disadvantage and embarrassment of passing specifically at this great distance from the people with whom I should confer, on a possible reservoir site for the city's purposes. My personal attitude, I am candid to say, is that I am agreeable to that, in order to bring all parties together, but I have not had access to my own people in connection with the matter.

Mr. ADAMS. Does that apply to the Owens River Gorge?

Mr. ELSTON. No; that is in the basin, of course.

Mr. ADAMS. No, it is in the watershed. That is what I am asking; have you accepted that?

Mr. MATHEWS. No, sir.

Mr. ADAMS. You excepted the tributaries?

Mr. ELSTON. No, not the tributaries of Owens River.

Mr. MATHEWS. I will read the amendment as it would appear with Fish Slough in:

Provided, however, That the grant hereby made shall not apply to the lands located in the drainage basin of Mono Lake or of Kern River, or northerly of the drainage basin or Owens River, or upon Bishop Creek or its branches in Inyo County, or in Fish Slough Reservoir site in Inyo and Mono Counties, fn the State of California.

Mr. ADAMS. You do not except the Owens River; you except any drainage basins that may be to the north or west of that, do you?

Mr. MATHEWS. Bishop Creek is to the west.

Mr. ADAMS. I know; I am speaking now of the country above the gorge. You have reserved that; you have not excepted that?

Mr. MATHEWS. That is not excepted otherwise than as expressly stated in the suggested amendment.

Mr. RAKER. You want to exclude all lands north of Mono Lake in Mono County?

Mr. MATHEWS. It is broader than that.

Mr. RAKER. That is the first one. That takes everything north of Mono Lake; is that right?

Mr. MATHEWS. Yes; that is absolutely right.

Mr. RAKER. That is the first one—all north of Mono Lake?

Mr. ELSTON. No; that is the Mono Lake Basin.

Mr. RAKER. You have the Mono Lake Basin; that is one thing, in there now. And you want to exclude all north of Mono Lake in Mono County; that is another?

Mr. EATON. It is Mono Lake also, Judge.

Mr. RAKER. Mono Lake is excluded? I am asking now, all the basin north of Mono Lake?

Mr. WATTERSON. Will you allow me to make this suggestion: Instead of putting it Mono Lake Basin and all north of the Owens River Basin, why couldn't you make it all north of Owens River watershed, in Mono County, in the State?

Mr. RAKER. Let us get one at a time. You want to exclude all the land in Mono Lake Basin?

Mr. WATTERSON. That is right.

Mr. RAKER. You want to exclude all the land north of Mono Lake in Mono County; that covers that point?

Mr. WATTERSON. Correct.

Mr. RAKER. Second, you want to exclude all the land tributary to Fish Slough in Inyo County; is that right?

Mr. MATHEWS. All lands in Fish Slough Reservoir.

Mr. WATTERSON. What is known as the Fish Slough storage project—the Fish Slough Reservoir project.

Mr. RAKER. That is right, is it?

Mr. MATHEWS. Yes.

Mr. RAKER. The Fish Slough Reservoir site and all land tributary to Fish Slough?

Mr. WATTERSON. No; the Fish Slough storage project.

Mr. RAKER. You want to exclude the Fish Slough Reservoir site and all the drainage basin of Fish Slough?

Mr. RANDALL. No; just the reservoir site.

Mr. RAKER. One at a time.

Mr. WATTERSON. If you will just repeat what you have.

Mr. RAKER. You want to exclude all lands involved in the Fish Slough Reservoir site and the watershed tributary thereto.

Mr. WATTERSON. No; I think not; not the watershed tributary. That would not be necessary.

Mr. DIXON. It is essential in connection with Fish Slough that we should have the impounding ditch from the river. That would be about a 5-mile ditch across. Otherwise the slough at the reservoir is utterly valueless. And there are connections with that to which I want to call attention later.

Mr. RAKER. That is exactly what I have said; that is what I mean; you want the Fish Slough Reservoir site?

Mr. DIXON. And its impounding ditch.

Mr. MATHEWS. This is not a bill to grant you anything; it is a bill to exclude certain things.

Mr. RAKER. And the watershed tributary thereto; do you want that excluded?

Mr. WATTERSON. I do not think that is necessary.

Mr. DIXON. I can explain and will explain a little later, but the watershed of Fish Slough itself is negligible. It is the waters impounded from the Bishop Creek watershed or Owens Creek watershed. As a stream, the slough runs off to one side. It is just a natural depression on one side, and the drainage into it is negligible.

Mr. ELSTON. But if you establish the reservoir there some waters will be taken from Bishop Creek or Owens River?

Mr. OSBORNE. In other words, they do not want the watershed tributary?

Mr. DIXON. It is the waters tributary to the valley. The drainage into Fish Slough is negligible.

Mr. MATHEWS. My personal attitude is to favor excluding the Fish Slough Reservoir site in order to bring about agreement.

Mr. RAKER. They are excluding all northerly of the drainage basin of Owens River. That you want in. Is that right?

Mr. DIXON. That would not affect us in any way, shape, or manner.

Mr. WATTERSON. It does not affect us. It excludes lands in which we are not interested.

Mr. RAKER. You want an exclusion now that this grant does not provide, and that is what you people all agreed upon, to exclude the Mono Lake Basin, the Kern River Basin, all north of Mono Lake in Mono County, the Fish Slough Reservoir site, and northerly of the drainage basin of Owens River, or upon Bishop Creek or its tributaries.

Mr. MATHEWS. That is what I understand they want.

Mr. DIXON. It may be reached in another way, because when we come to the map I could elaborate very easily; but for the present moment I will say this, the small reservoirs for which the citizens applied, and which were specifically protected in the old bill, under present conditions are not protected. But I think it can be reached in another way.

Mr. RAKER. Tell us; what is the location; what is the name of the creek and of the land tributary?

Mr. DIXON. Rock Creek reservoir, Convict Lake reservoir, and Pine Creek and Hilton Creek.

Mr. KETTNER. They were protected under the 1906 bill.

Mr. DIXON. Yes, they were protected as the bill read—that is, as the bill read they were protected—but as a matter of fact, they were not protected at all, as I can show you. And that is a feature of the case; if they are protected, if you intend to protect them in the same way they were protected, we ask that you be more specific.

Mr. RAKER. Now, what is excluded, what creeks and lakes?
Mr. DIXON. Rock Creek.
Mr. RAKER. What other creek?
Mr. DIXON. Convict Creek.
Mr. RAKER. Any other creeks?
Mr. DIXON. Hilton Creek, Pine Creek, and Horton Creek.
Mr. RAKER. What other creeks?
Mr. DIXON. Mammoth Creek.
Mr. RAKER. Any other creek?
Mr. DIXON. I think that covers it.
Mr. RAKER. What lakes?
Mr. DIXON. The lakes are named in connection with the creeks.
Mr. RAKER. Are there any lakes?
Mr. DIXON. Yes, the lakes are on the creeks, Convict Creek, just as they run there.
Mr. RAKER. Are there lakes connected with it, too?
Mr. DIXON. The lakes are on the streams themselves, just simply spreading out; natural reservoirs just running through the lakes, as Rock Creek Lake and Convict Lake.
Mr. RAKER. All right. Then your theory is to exclude the lands on Rock, Convict, Hilton, Horton, Pine, and Mammoth Creeks and the lakes of Convict, Hilton, Pine, Horton, Rock Creek, and Mammoth, and the tributaries of said lakes and creeks. Now, is that what you want to exclude?
Mr. DIXON. Yes, sir.
Mr. RAKER. What do you say about that?
Mr. MATHEWS. What is Mr. Watterson's attitude on that?
Mr. WATTERSON. It was not my idea to ask for an exclusion of those.
Mr. MATHEWS. I do not think the people of the valley do, and we will never get together in the world.
Mr. DIXON. That is the reason I said I thought we could reach it in another way.
Mr. RAKER. What is the other way?
Mr. DIXON. The way mentioned in the old bill was "all pending applications on that date" were protected.
Mr. MATHEWS. We will repeat that paragraph in this bill if you want to.
Mr. DIXON. That is all right to repeat it, but because of the interpretation of the bill our rights have been defeated. That is what I want to call to your attention. I do not know how it can be reached, only I call it to your attention just to show the bill should be amended in that way if possible.
Mr. RAKER. It is the easiest thing on earth to amend this bill without confirming anybody's right or adding to it if it is desired to say the land on Hilton Creek and the creeks named and the lakes named and their tributaries.
Mr. ELSTON. You are not going to get any agreement on that. Mr. Dixon is trying to control an administrative discretion and judicial power on the facts presented in an application, which can hardly be reached in that way. It will in effect be a direction of the discretion of the department as to its decision on a pending application. He is objecting not to the sufficiency of the rights reserved in section 3; he is objecting to the decisions of the department on applications made in pursuance of those rights. I do not see how you are going

to reach that. You are not going to bind the future judgment of the department.

Mr. RAKER. Are there any applications by Los Angeles covering those creeks and those lakes?

Mr. MATHEWS. I think we have on Rock Creek.

Mr. RAKER. On any of the rest?

Mr. MATHEWS. I think not.

Mr. WATTERSON. I have never heard of them having any.

Mr. RAKER. Then there is only Rock Creek involved. Are there any fillings, applications, etc., by you people in regard to the other creeks and lakes?

Mr. DIXON. Yes; filings.

Mr. RAKER. Now, if Los Angeles has not any on file to-day, what is the objection to placing in the bill that this grant does not apply to rights of way to those tributaries and the lakes?

Mr. DIXON. Because as the bill has been interpreted heretofore if this new bill, or amended bill, goes in in the same way and the same interpretation is given to it, then you shut us out.

Mr. RAKER. I say why not exclude in this bill as part of this provision, the land on those tributaries and those lakes?

Mr. DIXON. If you will just pardon me saying, what I am trying to get at can be arrived at in another way entirely, amicably.

Mr. ELSTON. What is the way?

Mr. DIXON. That is, these lakes could be used not only for power, but for irrigation. And I went up there on Rock Creek Lake and said I would build a dam 25 feet high and the department said it is more valuable for power than for irrigation, and therefore reserved the right to construct it 50 feet. I did not care. It does not affect me one iota. The people will go in there and build small reservoirs, or ditch companies, and they will construct one particular reservoir for their own individual use. I said that was all right provided we could get the thing shaped up here in Washington, and we would simply have to go before the Geological Survey and say "Can that be altered in some way so that we can use it for storage," and perhaps somebody else, perhaps Mr. Adams—I do not care who does it, the Government—says we will do it, we will build the dam up 100 feet high and give ten times more water than you; we will give you what you have gotten, and use your water for power. Down on Rock Creek I assisted in surveying the whole thing. There are four water-power sites running down into that stream, into the reservoir site of the city, and that power is considerable. That power can be utilized and if I can store at Rock Creek Lake, and there are men there at work to store on that lake, working there this fall and last summer, in the lakes. That water comes down and is used for power. It is not hurt one particle. We are not opposed to the power proposition; we are not opposed to the Government or the city doing anything along that line. But I believe that the thing should be reached so that a basis can be reached, and I could go and Mr. Watterson, as to certain portions of that, just simply go to the Geological Survey and say, "is it possible to have this altered"; what is necessary to be accomplished here in Washington to do it. And I go to the Land Division and say, "now here, if this is all satisfactory, why can you not grant us the right of way".

Mr. ELSTON. Why can you not put in something like this in section 3, providing that those pending rights or applications at that date or this date——

Mr. DIXON. Or any future date.

Mr. ELSTON. Which are saved by the section—that in connection with those rights the fact that the waters are also useful for power shall not contravene the application for water rights, except that the Secretary of the Interior shall make such restrictions and regulations as will preserve the power rights as well, in so far as they shall not interfere with irrigation. There might be some clause provided by which the Secretary of the Interior may make a ruling that the waters may be used both for power and for irrigation. He can make reservations for the use of the water for irrigation, and at the same time for its use for power. I think that can be easily be worked out.

Mr. MATHEWS. We want nothing in this bill that will result in any unreasonable restriction on the valley in getting water or ditch rights or reservoir sites for water purposes.

Mr. RAKER. As a matter of fact, under the bill (there is no need discussing it), this gives the city a prior right to all the land in these creeks and rights of way for canal purposes and reservoir purposes. Now, Mr. Mathews says they have not any applications pending for any of that land involving these creeks or tributaries, excepting Rock Creek. These other people say thay have and are figuring on developing it. Now, the question is, can you eliminate these creeks and their tributaries. How is that, Mr. Mathews?

Mr. KETTNER. They only want the water and Los Angeles wants the power.

Mr. MATHEWS. This would exclude us the power; that is the only thing we are interested in on the creeks mentioned by Mr. Dixon, of which I think the city has applications pending only in Rock Creek.

Mr. KETTNER. Can we not word it so as to give these people the water, to exclude the water and give Los Angeles the power?

Mr. CHURCH. In getting the power won't you have to take the water so far away that the water could not then be used for irrigation?

Mr. MATHEWS. No; to develop the power you would have to use the descent of the water in the streams.

Mr. CHURCH. Above the point of irrigation?

Mr. MATHEWS. Yes. I think it is perfectly feasible; most of those streams are perfectly susceptible of the double treatment. The storage there will save and regulate the flow of water for more efficient irrigation as well as make it sable for power. The schemes fit into each other.

Mr. RAKER. The further proposition is true, and that is what you expect; I am going to find out all that is in it, and then see if we can not adjust it. If you store any water on either of those creeks for power purposes and use if for power purposes, the stored water would be used.

Mr. MATHEWS. For power purposes?

Mr. RAKER. No, for any purpose. Can you run the water down those creeks into the main river and then use it afterwards, just as much for power development as you would for water development?

Mr. MATHEWS. No; the water runs down to the river now; you would not change that. The only thing is you would store for a while and operate the wheels to generate the power.

Mr. RAKER. Let us not deceive ourselves; it you stored water in those large creeks, in those large reservoirs, or small reservoirs, you would claim the use of the water for power purposes; is not that right?

Mr. MATHEWS. Every drop in that valley is——

Mr. RAKER. I am talking about water for power purposes first.

Mr. MATHEWS. No, you are mistaken there. Take the whole situation; take the Owens River: We have a storage project on Owens River, but we can not store one drop of water of Owens River until we go to those people in the valley below and get their consent to store it under certain conditions, under which we release the water for their use for irrigation purposes, just as we propose doing on Big Pine Creek. We had to go to every owner of a water right and enter into an arrangement. We can not carry out any storage plans and can not carry out any power plans unless we work out a scheme that is satisfactory to them. Unless we get them satisfied we can not move a peg.

Mr. RAKER. If you stored 100,000 acre-feet of water—that is, flood water that goes to waste—it would be yours, wouldn't it? You would use it for power purposes in the first instance, and the flood water would be yours and you would measure the actual flow of the stream and take the flow of water and permit it to be used, and none of those people could use any of this extra surplus stored water, and you would have a right to run it into Owens River and then to use it. I want both sides to understand this bill as I understand it, whether I am right or wrong, and it is then for them to determine what they want.

Mr. WATTERSON. It is a little awkward and complicated for the others who are not familiar with it to understand it. Now these reservations, Mr. Dixon has asked for, like on Hilton Creek, Convict Creek and Mammoth Creek, we could not use them and would not want to use them, if the city put the storage in Long Valley that they contemplate; because they are above the reservoir where they could be of no possible use to us, but would be in the event the city failed to put in this storage in Long Valley that they contemplate doing. Is not that the case?

Mr. MATHEWS. Yes, that is absolutely the case.

Mr. WATTERSON. We could not possibly make any use because they run from those lakes down to their reservoirs and would be of no use to us.

Mr. DIXON. Excuse me on that particular point, because you misunderstand the attitude of some of those parties. I can specify on Mammoth Creek, Mr. Summers told me on those lakes the waters had been partly stored before, and it is his intention to store this year, and they are above the flood waters and all the run-off goes right down and the city gets them just the same. And Hilton Creek is the same; there are similar filings on Hilton Creek. I do not know now just how long they have been before the department, but they are still in contest. The proposition was to utilize those on Rock Creek according to such adjustment as they could make for the Owens River canal as an individual concern, for the storage water; that we would run that down into their reservoir and that they would have the use of the power and it would not affect us at all. When it came down to the intake of our canal, it would run out into our canal, and we would have the water right which we started to develop before the Reclamation Service came in, where we were completely shut out and we were defeated in our right, simply because of the interpretation placed upon this act. And the proposition has been up during this past season, with me as secretary of the association ditches,

and as a stockholder and property owner, using the waters in the Owens River canal. So I say we need to go up there and store some water, because it appears the city may not come in and store the water for some time. It may be five years.

According to the present bill it is four, and that would be nine years. In the meantime we can very easily lose 10 times our expenditure in our crops, because facing the situation they had there this year, without stored water, it is a serious matter. And they can well afford to go in there and store water in those small lakes. The cost of putting up small dams is very slight, and I feel it can be done in a few months.

Mr. RAKER. Let me put this question to you: All stored waters above the natural flow, if stored bythe city of Los Angeles, under the laws of the State of California, belong to the city of Los Angeles; and they would run it down the natural channels and streams, and, when they come to these ditches, you would get what you had had in the past and they would get the benefit of the stored water, which would go on into their conduits and their reservoirs? That is the condition?

Mr. MATHEWS. No, that is not the condition. To illustrate by Owens River, we would store water on Owens River and when we released the water from the dam it would run down and be used by those irrigators in pursuance of their prior rights or accustomed use.

Mr. RAKER. Would you be willing to put a provision in the bill of that kind—that the stored water by the city of Los Angeles upon any of those power streams could be used by the people of Inyo County?

Mr. MATHEWS. I would want to leave their rights alone.

Mr. RAKER. They haven't any rights.

Mr. MATHEWS. They have plenty of rights.

Mr. RAKER. The city of Los Angeles stores that water, and the surplus is theirs. That is the law upon the subject. There is no doubt about it, and it is only for you people to adjust this matter among yourselves.

Mr. ELSTON. I was thinking of something like this in connection with section 3, which touches pending applications for rights of way, and so forth. I suppose it is practicable for irrigation purposes to add a proviso, which I am trying to frame as follows:

Provided, further, That no such applications touching irrigation projects shall be denied because the waters involved may also be used for power purposes; but th Secretary of the Interior in such cases may make such regulations as shall preserve the power without impairing the uses of the water for irrigation.

We have now got an idea what the city is willing to do in the way of exclusion. So far as they are willing to make amendments, it satisfies the Inyo County irrigation people except as to this Fish Slough project; and there they feel that they should be protected. Now a suggestion has been made with regard to a possible clause which might cover that situation, in which case I understand the Inyo County people would be entirely satisfied. Is that so?

Mr. WATTERSON. I think so.

Mr. ELSTON. That leaves, then, only for consideration, if this works out at all, the proposition for the power end of the game represented by Mr. Adams. I do not know what Mr. Adams has suggested, and we might take a minute for him to put into the record his suggestion, so that we will at least have a tentative idea of where he stands. How do you feel, Mr. Adams, about the suggestions

made on the part of the irrigation people; would they satisfy you and protect them?

Mr. ADAMS. I do not understand that this proposal here would interfere, as long as they do not exclude the Mono Power Co. from getting its applications. It does not exclude them.

Mr. RAKER. Along what creek, land, or territory do they claim rights?

Mr. ADAMS. In the gorge.

Mr. RAKER. In what gorge?

Mr. ADAMS. In the Owens River gorge.

Mr. RAKER. Just name it.

Mr. ADAMS. It is where, practically, Rock Creek comes in up the gorge, a little above the north line of section 9, in Mono County.

Mr. WATTERSON. Below the proposed dam and intake of the city, isn't it?

Mr. ADAMS. Yes. Well it is below the Long Valley Dam.

Mr. WATTERSON. That is what I mean.

Mr. ADAMS. Yes.

Mr. ELSTON. Now, I think the best thing for you to do is to give your concrete suggestions. You submitted an amendment yesterday, and on the basis of that amendment, I put a question to Mr. Mathews yesterday and he said he was decidedly opposed to it; that is, he did not want to save to you a six months lapse of time subsequent to the passage of this act, during which you would have a concurrent right with the city to make application for any rights of way you wanted. I thought myself that was rather drastic, because the present law gives you an even start with the city for that purpose.

Mr. RAKER. Have you an application on file?

Mr. ADAMS. For those additional lands?

Mr. RAKER. Yes.

Mr. ADAMS. I brought suit——

Mr. RAKER. Oh, no, have you an application on file before the Department of the Interior or the Department of Agriculture?

Mr. ADAMS. I do not think so. It is to be filed, you understand, when my attention was called to it, of course. I do not know whether it has been filed yet or not. It may have been since I left California. But this crosses a few little pieces of Government land. The rest of the way we are condemning over the lands which Los Angeles has taken under their reclamation grant.

Mr. MATHEWS. The act of 1906?

Mr. ADAMS. Yes; the act of 1906.

Mr. ELSTON. Is the city using those lands across which you are trying to get a right of way, for a right of way itself, or is it just vacant land across which it denies you any right of way?

Mr. ADAMS. It is the land which they have in ownership. The water is diverted under the plan and put back into the river again.

Mr. RAKER. Mr. Elston's question is, are they using that land for reservoir purposes now?

Mr. ADAMS. No.

Mr. ELSTON. Is it your theory then that this land is idle and they do not need it for their right of way, but are merely holding it there and blocking you from getting the rights of way for your power?

Mr. ADAMS. That is what I should say.

Mr. ELSTON. That is your contention?

Mr. ADAMS. Yes.

Mr. MATHEWS. There is a radical difference of opinion on that point.

Mr. RAKER. Is the land so situated it is covered with a reservoir now?

Mr. ADAMS. No.

Mr. RAKER. Is it in a reservoir site, that is going to be covered with a reservoir?

Mr. ADAMS. No. The only ones we are seeking to dam are small regulating reservoirs in the gorge itself. There is a diverting dam and regulating reservoir, but there is no storage reservoir, you might say, that could be termed a storage reservoir, that could be made in the canyon. The canyon is from 200 to 500 feet in depth, and the sides are almost perpendicular almost all the way.

Mr. RAKER. What use is Los Angeles now making of that land?

Mr. ADAMS. None.

Mr. RAKER. What use is contemplated to be made of it?

Mr. ADAMS. They have filed some water appropriations upon this land, putting their intakes just above each one of the Mono Power Co.'s and putting it in the river again and taking it out around us. That is the only thing I know of. They have filed that and that is on paper.

Mr. ELSTON. Are they going to a large expense in going around you in the way of their tunnels and so on?

Mr. ADAMS. It is a big expense, of course, anything on that line.

Mr. ELSTON. Could that be obviated by going right down the river, by which all their water and power could be used for their lower projects? Would it be possible to make such an arrangement, to save them the expense of going around you?

Mr. ADAMS. Well, it could not, because there would not be water enough for them.

Mr. RANDALL. What kind of land is your power site? Government land, privately-owned land, or city land?

Mr. ADAMS. The Mono Power Co. have a section.

Mr. RANDALL. Of What?

Mr. ADAMS. Of land they have patented, which they have under a patent. It was school land.

Mr. RANDALL. Government or State school land?

Mr. ADAMS. It was given to the State. And that takes up one mile of the river—over a mile. These pieces we are seeking to condemn are above that section 16 and below that section 16.

Mr. MATHEWS. Are those pieces you are seeking to condemn part of the lands which the Government granted to the city under the act of 1906?

Mr. ADAMS. Yes; I have a map right here in the building, which I can get, and I think you gentlemen can then see at a glance exactly what our proposition is.

Mr. ELSTON. That would just illustrate what they are. The main thing here is just what your rights are and what you want in the bill.

Mr. ADAMS. I would like this suggestion which I made yesterday for an amendment, and that is to give us six months in which to file.

Mr. RAKER. You have that amendment presented already.

Mr. ADAMS. I will give it again.

Mr. RAKER. No; once is enough.

Mr. ELSTON. Can you think of any other way? Mr. Mathews stated a proposition yesterday, which he claimed would give everybody the same status under the bill as they now have; that is, a free

start to file application with the secretary of the Interior. That is all you would get under this amendment. If you file an application in six months it does not give you any prior rights, because the city could file applications also.

Mr. ADAMS. It would be this way: This, of course, would show the Secretary of the Interior that we have even rights to file applications with the city of Los Angeles. Otherwise it might appear that they had the prior right and we simply would come afterwards.

Mr. ELSTON. I think that ought to be safeguarded. I think if you had a project and they had a project, that you ought to have an even start, leaving the Secretary to decide it.

Mr. RAKER. Have you any further suggestion, Mr. Mathews, as an amendment?

Mr. MATHEWS. On other points? My idea is that just whatever the committee decides to do as to section 3 of the act of 1906 will be satisfactory. We are indifferent whether you reenact or reaffirm section 3.

Mr. RAKER. We have already agreed on that.

Mr. MATHEWS. Yes; also that you put into the bill a provision similar to what you referred to yesterday as the Hetch Hetchy provision.

Mr. RAKER. We have agreed to that.

Mr. MATHEWS. I have not had that before me; I do not know what it is.

Mr. KETTNER. It is inserted in all the water-power bills, I believe.

Mr. MATHEWS. Here is something not in controversy. Perhaps you will remember, Judge Raker, on the 14th day of January, I mentioned to the committee—I believe Judge Church was ill and not present—that the city desired to eliminate from the Senate bill the last section, section 4, the reasons for that being set forth at the hearing and covered in this record.

Mr. RAKER. That is not a controversy with these people.

Mr. MATHEWS. No.

Mr. RAKER. That is a matter we will have to take up with the full committee.

Mr. ELSTON. The last section of the original act.

Mr. RAKER. Section 6. We do not want to take any time on that. Now, let me put this question. Let us go back just a moment to the Inyo National Forest. What land does that cover? Does that conflict in any way with the Inyo County? Does anybody want to say anything about that? It is satisfactory to cover that Inyo National Forest?

(No response.)

Mr. RAKER. The Sequoia Forest; where does that take?

Mr. KETTNER. That is a tremendous forest.

Mr. ELSTON. Except the drainage, the drainage goes through that forest.

Mr. RAKER. Where does that go to?

Mr. MATHEWS. Sequoia?

Mr. RAKER. Yes.

Mr. MATHEWS. It is, I think, largely in Kern County.

Mr. ELSTON. Mostly Kern River drainage?

Mr. MATHEWS. Yes. They evidently refer to that as part of the Kern River drainage.

Mr. RAKER. Is that satisfactory to you, Mr. Church?

Mr. CHURCH. I have had no report from my people on that whatever.

Mr. RAKER. Santa Barbara the same, and Los Angeles the same? Of course, I suppose that takes lots of territory outside of the counties named. Now what do you gentlemen want to do? We are not prepared to go before the full committee Monday at all.

Mr. ELSTON. If a clause which Mr. Mathews suggested yesterday might be inserted, namely, that it was not intended to put a blanket over the whole territory, I think that will settle the whole thing. Now that would exclude the speculative proposition of new filings or new projects merely to harass the city. It would permit merely rights of way that are natural outlets for existing projects. I think that is a reasonable thing. If the city has superior rights in its existing project, they will be sufficiently protected.

Mr. MATHEWS. May I state the attitude of the city, with a view to having you understand our situation and with a view of having you understand, possibly, the general purpose of the measure. As I say, the city is perfectly willing that you put in the bill, on that point, an express provision to meet the difficulty that these folks (Mr. Watterson and Mr. Dixon) say the valley has experienced in the past under rulings of the department to the effect that the act of 1906 authorized the blanketing of the whole region there; such provision, so to be inserted in this bill, to provide expressly that the act shall not be deemed or construed to make or authorize the withdrawal of any lands, for the purposes of the projects of the city as against any application for rights of way for ditches, reservoirs, or other works for irrigation or domestic water supply.

Mr. ELSTON. But not for power.

Mr. MATHEWS. I am saying what we are perfectly willing and want to do, because that is in line with what we have already stated to this committee, that we want nothing for the aqueduct, as such, in the way of an additional water supply; and as Mr. Dixon said—and I see the point and the merit of it—these people want to take our irrigation ditches or reservoir projects in aid of their irrigation. We do not want this act as a blanket provision so that they can not proceed as they are now proceeding.

Mr. RAKER. Suppose you put in the act the Secretary of the Interior shall not withdraw any lands in any of the counties named or any of the national forests named.

Mr. KETTNER. That is just what he is suggesting.

Mr. RAKER. He agrees to that?

Mr. ELSTON. The city evidently does not want to be tied down to any definite right of way, but wants a general right to designate reservoir sites and rights of way that may be useful to projects of which it has not yet exactly determined the limitations. Now, that is one thing; that gives them the affirmative right. If you put in, in addition to that, that this right as herein conferred, which is a general roving right, shall not impair the right of anyone else to make applications for rights of way or reservoir sites, that would settle the whole thing.

Mr. RAKER. I have asked Mr. Mathews if he is willing to put in the bill a proviso in substance that the Secretary of the Interior or the Secretary of Agriculture shall not withdraw any of this land that the city may proceed to get its right of way by application.

Mr. MATHEWS. That is for every purpose—for any purpose?

Mr. RAKER. Yes.

Mr. MATHEWS. There is my difficulty. I say you can put it in so far as any irrigation rights or water rights are concerned, that there shall be no withdrawal, and leave it to them. The city, not wanting any additional legislation or rights in regard to water for its aqueduct, is willing for that provision to go in for protecting the irrigation and water interests of that valley against this legislation. As to power, we have no difficulty with Mr. Adams, but there are other power companies interested in that country with which we have had difficulty. We have had to fight our way on every stream where we have sought to introduce our power projects. And in our financing, as I stated yesterday, of our power developments, we have to go to the people and agitate and get a two-thirds vote to provide the money we require. Persons acting in the interest of one of the companies that operate in that country make it a business to come into Los Angeles politics and to agitate the people against our power projects, so that if we have a project in Owens Valley looking to development of power on any of those streams, including the building of dams and reservoirs and the building of power lines to carry our power down to Los Angeles, we really have to reckon with any power company, because we have to go to the people and they can go to the people and we have to argue the thing out with the people before we can get the money to build our projects. Now, if this bill results in a law which does not protect us as regards the interference of power companies——

Mr. ELSTON. By excluding the applications of others until you have fixed your rights?

Mr. MATHEWS. Yes.

Mr. ELSTON. That is what I want to know.

Mr. MATHEWS. Than, we are at the mercy of the adverse power companies.

Mr. ELSTON. Why haven't they come in? They have had a free hand to come in and file applications that would block you, and why is it you fear to give them the same opening now? They have had this right up to this moment and will have it for the next few weeks before this act goes into effect. Why is it you want to have this thing air-tight and bombproof for your priorities and exclude others from making applications, when the sky has been the limit for them up to this date and will remain so up to the time the act passes? What is there which makes it such a tremendous menace two weeks hence, when it has not alarmed you up to date?

Mr. MATHEWS. For instance, suppose we say to the people of Los Angeles that we want to build a power project on Rock Creek and we can not build it unless they give us the money by a two-thirds vote. That power project includes three power sites, three power plants, and rights of way from there down for transmission. We give to the world our project. Now, if under this act we could have an option on the rights of way for the necessary power projects, then we could go to the people and fight it out, and if they give us the money for this project, then we should have the necessary rights of way for our project, and we can spend the money on it and carry it out. But, suppose before we can get our option and initiate our entries we have to go to the people to get the money; while we are getting the people in the mood of voting us the money the power people will gobble up the rights of way we require, and our project is either defeated or seriously hindered.

Mr. ELSTON. You won't go to the people until you have made your applications and protected your rights to the extent that you have a definite scheme to lay before them?

Mr. MATHEWS. We can not take up a project, we can not tell the Government of the United States that we need rights of way; that we, for instance, have decided to build this project on Rock Creek or some other creek, if we still have to go to the people and the people may turn us down and nullify our efforts—veto such project.

Mr. ELSTON. I see the whole thing now. Of course, your word "option" gives the kernel of the whole thing. That is, after the act goes into effect you want to bar every one from these lands until you have designated your projects. If that is your plan, then it will exclude Mr. Adams from getting anything for his project until you determine what you want to do.

Mr. OSBORNE. Would you prevent Mr. Adams from instituting a right to-day and making a location? He has had 17 years, and what would prevent him from going this afternoon and making a filing?

Mr. ELSTON. I want to ask Mr. Adams the same question I have asked Mr. Mathews. I would like to ask why he wants a six-months period in which to determine what locations he wants.

Mr. OSBORNE. I do not think there is any very great danger about this bill cutting off anybody for quite a while.

Mr. ADAMS. It would be exactly as has been stated here, that Congress having declared that Los Angeles should have everything in this territory, there is no doubt in my mind the Secretary would deny the application at once.

Mr. ELSTON. You can make the application in the next two weeks.

Mr. ADAMS. Yes; or in the next three weeks possibly, but that would not do us any good, because we would be hung up.

Mr. ELSTON. Just like they have been hung up for the last 15 years.

Mr. ADAMS. Yes. For instance, we had an application in once before and they would not act upon it. And I think the Secretary would probably take the same view again.

Mr. RAKER. In addition to subdivision 3, let us see if we can agree on this, to put in a reservation of all prior rights and claims of any applications on the public domain, irrespective of what they might be, and then to put into proper form, such as for power purposes, irrigation, mining, homesteading, desert lands, reservoirs, or whatever it might be—prior rights or prior applications. Would that be satisfactory, Mr. Mathews?

Mr. MATHEWS. I think it would be all right.

Mr. RAKER. It would be safe to say that you are ready and willing to agree that all prior rights and claims and applications, irrespective of what they might be, as to reservoirs, canals, and ditches, for irrigation, mining, or power, together with homestead and desert-land claims, should not be affected by this act.

Mr. ELSTON. That is all right. Now that would cut out Mr. Adams's contention for the six months' period.

Mr. RAKER. No; and shall not affect any rights incident or necessary to the completion of the rights already pending. That would then protect Mr. Adams.

Mr. ADAMS. Projects already under way.

Mr. RAKER. Yes.

Thereupon, at 12 o'clock p. m. the further conference was adjourned to to-morrow, February 9, 1919, at 11 o'clock a. m.

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WATER SUPPLY OF LOS ANGELES, CALIFORNIA

HEARING

BEFORE THE

COMMITTEE ON THE PUBLIC LANDS

HOUSE OF REPRESENTATIVES

SIXTY-FIFTH CONGRESS
THIRD SESSION

ON

S. 4023

A BILL GRANTING RIGHTS OF WAY OVER CERTAIN LANDS FOR THE WATER SUPPLY OF LOS ANGELES, CALIFORNIA

FEBRUARY 9, 1919

PART V

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SIXTY-FIFTH CONGRESS.

THIRD SESSION.

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WATER SUPPLY OF LOS ANGELES, CAL.

COMMITTEE ON THE PUBLIC LANDS,
HOUSE OF REPRESENTATIVES,
Washington, D. C., February 9, 1919.

Further conference on Senate 4023, Hon. John E. Raker, presiding.

Present: Representatives Kettner, Elston, Osborne; also, Messrs. W. B. Mathews, George Watterson, Galen J. Dixon, Edson F. Adams, and Fred Eaton; also, Mr. Edward C. Finney, of the Department of the Interior.

Mr. RAKER. I want to ask Mr. Mathews to make a statement for my own satisfaction. Mr. Mathews, what claims, outside of your prior projects, do you contend for for rights of way in Inyo Forest?

Mr. MATHEWS. I do not know. I could not tell you exactly where Inyo Forest is. I can only say that in selecting these forests and in naming them the idea was to include the forest reserves through which the projects originally ran, and to name such reserves according to their present designation. The names have been changed, so that we have adopted the present names.

Mr. RAKER. What claim for ditches, reservoirs, reservoir sites, or otherwise, do you claim through Sequoia Forest?

Mr. MATHEWS. I do not know.

Mr. RAKER. That runs clear up to Mariposa County on the west side of the mountains. It is all on the west side of the mountains.

Mr. MATHEWS. It could only come within our reach on the top of the range of mountains.

Mr. OSBORNE. You do not want anything west of the divide?

Mr. MATHEWS. No. That is the reason the Forest Service cut us out of the Kern River basin.

Mr. OSBORNE. You could exclude all of the Sequoia Park west of the divide.

Mr. RAKER. What about the Santa Barbara National Forest?

Mr. MATHEWS. Our San Francisquito projects are in that forest.

Mr. OSBORNE. Is it way down south in Los Angeles County?

Mr. MATHEWS. We have to go through the Santa Barbara Forest.

Mr. RAKER. The first amendment that has been submitted, which is a copy out of the Hetch Hetchy bill, and also the water-power bill that is now pending, is in substance as follows. Let us see if we can agree on it.

That this act is a grant upon certain express conditions specially set forth herein, and nothing herein contained shall be construed as affecting or intending to affect or in any wise to interfere with the laws of the State of California relating to the control, appropriation, use, or distribution of water used in irrigation, or for municipal or other uses, or any vested right acquired thereunder, and the Secretary of the Interior, in carrying out the provisions of this act, shall proceed in conformity with the laws of said State.

Mr. ELSTON. That is the Hetch Hetchy provision?

Mr. RAKER. Practically.

Mr. ELSTON. Is that last clause in the Hetch Hetchy bill?

Mr. RAKER. Water for irrigation, power, or other municipal purposes. You agreed on practically that provision.

Mr. FINNEY. What is the Secretary of the Interior to do?

Mr. RAKER. And the Secretary of the Interior, in carrying out the provisions of this act, shall proceed in conformity with the laws of said State.

Mr. ELSTON. He can not do that. You say nothing shall affect the appropriation, and so forth, as defined by the laws of the State. There is nothing positive in the law.

Mr. FINNEY. In other words, he has no jurisdiction over California water rights.

Mr. ELSTON. When you say the Secretary shall have no jurisdiction there is no use going further and saying he shall not exercise the jurisdiction herein denied. I think that last clause might be a little confusing.

Mr. MATHEWS. Let me read section 27 in the water power bill, "that nothing herein contained shall be construed as affecting or intending to affect or in any way to interfere with the laws of the respective States relating to the control, appropriation, use, or distribution of water used in irrigation, or for municipal or other uses, or any vested right acquired therein."

Mr. ELSTON. Why not let that go; that is the ordinary acceptation anyhow.

Mr. KETTNER. No; that is in all the laws.

Mr. RAKER. This is exactly what is in the Hetch Hetchy bill, that I read, "that the Secretary of the Interior," and we should also put in there "the Secretary of Agriculture," "in carrying out this act shall proceed in conformity with the laws of said State."

Mr. ELSTON. They can not do that. It first says that nothing in the act contained shall touch rights in the State of California in the matter of water appropriations. That is exclusive. There is no use in making a direction to the Secretary that he shall conform to the State laws. I think it is just as well to leave that out, unless there is some good reason to retain it.

Mr. FINNEY. I do not quite see what duty the Secretary would save to perform under these things. I can tell you where that came from probably; that probably originally was an extract from the reclamation law.

Mr. RAKER. It was.

Mr. FINNEY. The idea being the Secretary, in making reclamation projects, must make his appropriation of water under the State laws, just like anyone else, but here the Secretary is not going to create any water for Los Angeles or for these gentlemen; it is up to them.

Mr. ELSTON. I think it would be confusing, I do not think it would help any.

Mr. KETTNER. In that bill of mine for a water right, you put that in.

Mr. RAKER. The same provision should go in here as in the others. Of course this is a grant on a condition, and the Secretary of the Interior must reject or approve these applications, and when he approves them the grant becomes effective as of the date of the act.

Mr. ELSTON. Yes; but in making approvals, rejections, or taking any action at all, he does not do it in compliance with any laws of

California, or in the pursuance thereof; he does it in pursuance of the Federal law.

Mr. RAKER. Yes, all his actions are guided by the laws of the State.

Mr. ELSTON. I do not think it amounts to anything.

Mr. RAKER. Yes; every right of way and every condition—I do not care much about it, but it is under the laws of the State, and the fellow must file his rights for water and the question of the appropriation goes before the Secretary, and he acts upon these claims, you see.

Mr. ELSTON. Of course the Secretary of the Interior when he comes to this direction for him to conform to the laws of the State of California, would just let it go.

Mr. RAKER. No; but he can not let it go. That is what he does now.

Mr. ELSTON. That means that is his duty to do it now, and what is the use of repeating it. That does not add any new thing or take away anything. The other says he shall not trench, in any act he performs here, on matters the State is particularly interested in. I do not think it will effect anything. But let us dispose of that. What do you insist on?

Mr. RAKER. I do not insist on anything.

Mr. ELSTON. It is your idea. It is surplussage, but I will not object if you insist.

Mr. RAKER. I think it ought to go in to carry out the objects of all these grants of rights of way, either temporary, revocable or permanent. The Secretary of the Interior gives his final approval only, unless it is a grant, without any authorization on his part, when a party has shown he has complied with the laws of the State of California, and the Secretary of the Interior is authorized to carry out the use of this land in conformity with the laws of the State in regard to the authorization of the appropriation of water.

Mr. ELSTON. It says the Secretary himself shall comply with the laws of the State of California.

Mr. MATHEWS. May I make this suggestion: If that paragraph should contain something imposing a duty on the Secretary, which might strike a Member of the House not at work at this conference as something to inquire about, would it not increase the difficulties of the bill in getting through the House? I understand we are going to have a tremendously hard row to hoe anyway.

Mr. ELSTON. Unless you can explain it easily. I do not know what explanation you can make.

Mr. RAKER. Here is the San Diego water bill, section 8, that this act is a grant upon certain express conditions specifically set forth herein, and nothing herein contained shall be construed as affecting or intending to affect, or in any way to interfere with the laws of the State of California relating to the control, appropriation, use, or distribution of water used in irrigation, or for municipal, or other uses or any vested rights acquired thereunder, and the Secretary of the Interior in carrying out the provisions of this act shall proceed in conformity with the laws of said State.

Mr. ELSTON. That does not add any authority to it to my mind. In construing that I do not see how that adds anything whatever to the forward part of the clause. Now, instead of saying the Secretary

shall observe Federal law, it adds confusion by saying he shall obey the laws of the State of California.

Mr. RAKER. I do not think so.

Mr. ELSTON. All right; I do not object to it.

Mr. RAKER. Then we agree to that, that we will put that in, that the Secretary of the Interior and the city of Los Angeles——

Mr. ELSTON. To my mind, I believe that would receive a reasonable construction.

Mr. RAKER. All right, then; that is agreed on, that the Secretary of the Interior, the Secretary of Agriculture and the city of Los Angeles shall proceed in conformity with the laws of said State. Now that is agreed on, let us go to the next one.

Here is one that you want to put in this bill too; that is, I want to submit it, that the right to alter, amend, or repeal, this act is hereby expressly reserved. That is agreed on. That is number two.

Now, I will read from this provision here and see if we can agree on this, and then we will take up the general provisions:

That the rights of way hereby granted shall not be effective over any land upon which homestead, mining, or other existing valid claims shall have been filed or made and which now in existing law constitute prior rights to any claim of the grantee until said grantee shall have purchased such portion or portions of such homestead, mining, or other existing valid claims as it may require for right of way purposes or other purposes herein set forth, and shall have procured proper relinquishments of such portion or portions of such claims, or acquired title by due process of law and just compensation paid to said entrymen or claimants, and caused proper evidence of such fact to be filed with the Commissioner of the General Land Office, and the right of such entrymen or claimants to sell and of said grantee to purchase such portion or portions of said claims are hereby granted; provided, however, that this act shall not apply to any lands embraced in rights of way heretofore approved under any act of Congress for the benefit of any parties other than said grantee, or its predecessors in interest.

Mr. ELSTON. That is section 3, is it?

Mr. MATHEWS. Mr. Elston had an amendment under consideration here yesterday which we did not take down to Mr. Finney.

Mr. RAKER. Do you agree on that? That covers the protecting of all prior rights and the right to purchase any if they want to. That is section 3 of the Hetch Hetchy bill.

Mr. ELSTON. I think it is agreed we should keep that in.

Mr. MATHEWS. Wait a minute; that is the Hetch Hetchy bill. We have section 3 of our own bill.

Mr. ELSTON. You are not going to keep them both in?

Mr. MATHEWS. The Secretary of the Interior has requested that we keep this section 3 in this bill, by implication.

Mr. RAKER. Then we do not touch it.

Mr. MATHEWS. And Mr. Adams's idea is to put in its terms again in this bill.

Mr. RAKER. I think we ought to protect the rights of homesteaders.

Mr. ELSTON. Mr. Raker, I do not care. My opinion is that inasmuch as this act does not touch section 3 at all, but purports by its several sections merely to amend certain designated sections of the original act, that by any reasonable construction the sections not

touched in the original act are left in the act. I do not see any reason to touch them at all.

Mr. MATHEWS. Do you mean by what you said to set forth again the terms?

Mr. ELSTON. Not of section 3; no.

Mr. MATHEWS. That is the usual way to amend a section.

Mr. ELSTON. Just say "and the same shall read as follows."

Mr. FINNEY. You are amending in this bill certain sections. Now, for the protection of the irrigators there, you propose to add something to section 3. Wouldn't it be better to put in here, to amend section 3 as you suggest, to repeat the whole section with such amendments as you agree on?

Mr. ELSTON. That would be the same phraseology as this bill, that the same is hereby amended and shall read as follows.

Mr. KETTNER. Just let Mr. Finney read that.

Mr. FINNEY. I think you had better read the whole section, Judge.

Mr. RAKER. You are right.

Mr. FINNEY. This section 3 is contained in the original Los Angeles act of 1906.

Mr. MATHEWS. Mr. Elston, yesterday you had an additional suggestion.

Mr. ELSTON. I am not going to bring that up. I had a little suggestion here and gave it to the stenographer.

Mr. FINNEY. The original section reads:

That the rights of way hereby granted shall not be effective over any land upon which homestead, mining, or other existing valid claims shall have been filed or made until the city of Los Angeles shall have procured proper relinquishments of all such entries and claims, or acquired title by due process of law and just compensation paid to such entrymen or claimants and caused proper evidence of such fact to be filed with the Secretary of the Interior: *Provided, however*, That this act shall not apply to any lands embraced in rights of way heretofore approved under any act of Congress, nor affect the adjudication of any pending applications for rights of way by the owner or owners of existing water rights; and that no private right, title, interest, or claim of any person, persons, or corporation, in or to any of the lands traversed by or embraced in said right of way shall be interfered with or abridged, except with the consent of the owner or owners, or claimant or claimants thereof, or by due process of law, and just compensation paid to such owner or claimant.

Now, we had these two further provisos.

Mr. RAKER. Now read me your amendment.

Mr. FINNEY. Provided, further, that all lands affected hereby shall be subject to applications for rights of way for canals, ditches, or reservoirs for the transmission, delivery, or storage of water for irrigation, if same be filed in the proper United States Land Office prior to the filing of maps by the city of Los Angeles, showing the boundaries, location, and extent of the rights of way sought by said city.

That is designated to cover future applications, not pending ones, so that future ones may be filed by anyone who wants to develop an irrigation project. And then a further amendment covering power development:

Provided further, That the grant hereby made shall not apply to any lands or rights of way included in any application filed by, and thereafter approved to, any person or corporation for the development of hydroelectric power in connection with any project upon which actual construction work was being performed prior to June 30, 1906, on that portion of Owens River lying above the confluence of Rock Creek and said river, and locally known as the Owens River Gorge, and upon which portion construction work has been carried on continuously since that date, provided, that such

applications for rights of way over or the right to use lands shall be filed within six months from the date of the passage of this act.

Mr. RAKER. Now section 3 with the two provisos will be agreed to, if there is no objection, and we can report to the full committee.

Mr. MATHEWS. There is no objection from my side. Is that satisfactory to you, Mr. Dixon?

Mr. DIXON. Yes.

Mr. RAKER. It is satisfactory to Mr. Mathews and to Mr. Dixon, and is it satisfactory to you, Mr. Watterson?

Mr. WATTERSON. Yes.

Mr. RAKER. And to you, Mr. Adams?

Mr. ADAMS. Yes, it is satisfactory.

Mr. RAKER. And to you, Mr. Eaton?

Mr. EATON. Yes, sir.

Mr. RAKER. Now we will report this to the committee. We have three now disposed of; what is the next one to add—and that portion of the Angeles National Forest situate——

Mr. FINNEY. That goes in line 11, page 2.

Mr. RAKER. And that portion of the Angeles National Forest situate and lying west of Range 6, S. B. M., as established by the United States Public Land Surveys, and that portion of Sequoia National Forest east of the crest of the Sierra Nevada Mountains.

Now instead of including all of the Sequoia and Angeles Forests we will add this amendment, as suggested by Mr. Finney, that is agreed to by all of you. It will read then—

through Inyo, Santa Barbara, and that portion of the Sequoia and Angeles National Forests.

Mr. MATHEWS. Mr. Eaton, you are a practical engineer; is that all right?

Mr. KETTNER. You have the west part of the Angeles Park; it should be the east part.

Mr. EATON. Yes, the Sequoia Park only comes to the summit of the Sierra Nevada Mountains.

Mr. RAKER. Oh, no.

Mr. OSBORNE. It comes over on the east side.

Mr. KETTNER. It runs away over to the west side, way over near Porterfield, the Indian reservation.

Mr. DIXON. It is the forest and not the park.

Mr. EATON. Oh, yes; the forest reserve. Yes, that comes over on the east side.

Mr. ELSTON. You are not concerned in any part of the forest reserve that lies east?

Mr. EATON. None at all. No, to get over there you would have to climb up into the air for two miles, and you can not very well get the water to flow up there.

Mr. RAKER. And that portion of the Angeles Forest situate west of Range 6, S. B. M., as established by the United States public land surveys, and that portion of the Sequoia National Forest east of the crest of the Sierra Nevada Mountains.

Now let us go to the county on line 5—that part of Mono County lying north of Mono Lake.

Mr. OSBORNE. You really take in something south of Mono Lake.

Mr. RAKER. The counties of Mono, Inyo, Kern, and Los Angeles, and that part of Mono County north of Mono Lake.

Mr. DIXON. It is north of the Owens River watershed.

Mr. OSBORNE. North of the Owens River watershed; that would be right; that goes south of the lake quite a ways. That makes the boundary south of the lake about 25 miles.

Mr. ELSTON. It gives you more territory than the other does?

Mr. OSBORNE. Yes.

Mr. EATON. If you will make that north, Judge, of the Owens River watershed, it makes it more.

Mr. RAKER. I think that is right; I think that is what it ought to be, but I want you folks to suggest that yourselves.

Mr. EATON. We suggest that if you want to take in all of the land you are trying to take in, you just say all of the land lying north of the Owens River watershed. It is the same.

Mr. MATHEWS. Is the drainage basin the same?

Mr. EATON. The drainage basin may drain from several watersheds.

Mr. RAKER. And all that land lying north of the Owens River watershed; that covers it all?

Mr. EATON. You can even say north and west, and that would make it definite.

Mr. RAKER. "*Provided, however,* That the grant hereby made shall not apply to lands located in the drainage basin of Mono Lake or of Kern River." And now we want in there—line 2, page 3——

Mr. FINNEY. All that portion of Mono County situate and lying north and west of the Owens River drainage basin.

Mr. RAKER. I think that is it. That is what you all want. Now, there is something else goes in there.

Mr. MATHEWS. Yes; we want Bishop Creek or its branches and Fish Slough Reservoir.

Mr. FINNEY. And that portion of Mono County lying north and west of the Owens River drainage basin?

Mr. RAKER. That does not exclude Long Valley, does it, Mr. Eaton?

Mr. EATON. Oh, no; if it did, you would hear from me.

Mr. MATHEWS. Or upon Bishop Creek or its branches, in Inyo County, or in Fish Slough Reservoir site in the counties of Inyo and Mono.

Mr. RAKER. Why don't you make that as you intend to, so as to include its tributaries?

Mr. MATHEWS. There are no tributaries.

Mr. RAKER. Now, Mr. Finney, read the whole section.

Mr. FINNEY. "*Provided, however,* That the grants hereby made shall not apply to lands located in the drainage basin of Kern River, or to that portion of Mono County lying north and west of the Owens River drainage basin, or upon Bishop Creek or its branches in Inyo County, or in Fish Slough Reservoir site in the counties of Inyo and Mono."

Mr. MATHEWS. No; that is confusing. I do not think that is correct, because that portion of Mono County is not on Bishop Creek.

Mr. RAKER. Or that portion of Mono County lying north and west of Owens River drainage basin, or upon Bishop Creek or its branches in Inyo County.

Mr. MATHEWS. I think that carries the idea you are still referring to that portion of Mono County. It is all right with me.

Mr. FINNEY. No; I do not think so.

Mr. OSBORNE. Put a semicolon in there, instead of a comma.

Mr. MATHEWS. I think it is a more clear and accurate description if you leave out "that portion of Mono County" entirely, and say "lands located northerly and west of the Owens River drainage basin."

Mr. RAKER. No; that portion of Mono County lying north and west of the Owens River drainage basin; or it does not apply to that portion of Bishop Creek or its branches in Inyo County, and shall not apply to Fish Slough Reservoir site in Inyo and Mono Counties.

Mr. FINNEY. It seems to me that is clear enough. It all relates to the lands.

Mr. MATHEWS. And put in there "or to the lands located."

Mr. FINNEY. That will make it absolutely clear. Or to the lands located upon Bishop Creek, or its branches, in Inyo County; or to the lands in the Fish Slough Reservoir site, in these two counties.

Now, what is the number of this amendment?

Mr. RAKER. The fourth amendment will be the one added to lines 5 and 6. The fifth amendment is the one changing the proviso in line 24, page 2, and lines 1 and 2, page 3. This last one that you just read is the proviso, provided, however, that the grant hereby made shall not apply to lands located in the drainage basin of Kern River; or to that portion of Mono County lying north and west of Owens River drainage basin.

Mr. MATHEWS. Let me suggest right there "or in that portion," you are referring to "lands located."

Mr. RAKER. All right. Or lands located upon Bishop Creek or its branches in Inyo County; or to lands in the Fish Slough Reservoir site, in the counties of Inyo and Mono. Of course you are repeating "land"; it is in there once—in the counties of Inyo and Mono, in said State.

Now, what is the next amendment? Are you satisfied with this, Mr. Mathews?

Mr. MATHEWS. Yes, sir; up to date.

Mr. RAKER. Mr. Dixon are you satisfied with it?

Mr. DIXON. Yes.

Mr. RAKER. And you, Mr. Adams; are you satisfied with this amendment with regard to this proviso here?

Mr. ADAMS. This reservation; I do not think it affects me.

Mr. RAKER. Whether it affects you or not, we are here to get this matter adjusted, and it is going to be of record and we are going to have it printed so that there can not be any difference of opinion that these people did not have a hearing, both Los Angeles and the people of Inyo and Mono Counties, so far as they are represented here.

Mr. FINNEY. Those last two amendments were exclusions from the grant.

Mr. ADAMS. They do not affect me.

Mr. RAKER. You are satisfied, Mr. Watterson?

Mr. WATTERSON. Yes, sir.

Mr. RAKER. And you, Mr. Eaton?

Mr. EATON. Yes, sir.

Mr. MATHEWS. I would like to state this, since I represent a public corporation: I am doing the best I can for my corporation. I am not delighted in all particulars with what is coming out now, but I believe in getting the best I can and reconciling differences as far as possible in order to obtain a result. I would not like to say I am striving to get this particular thing. I never have done that.

Mr. RAKER. We are trying to get a bill here that is workable and will give Los Angeles adequate opportunity to develop its water and irrigation system and hydroelectric system; and, at the same time, protect prior rights of claimants and others for irrigation for domestic and municipal purposes, as well as such legitimate power purposes as may be in existence, together with homesteads, homestead claims, desert land entries, and others, so that they may all be protected.

Mr. KETTNER. Mr. Mathews, in view of your statement, you feel that the California members have done everything that is right and fair in this matter?

Mr. MATHEWS. Yes, I do. You are acting with entire reasonableness, and that is the reason I think I should cooperate, because there are other interests than ours. I say, as far as my own particular interests are concerned, they are not as I should like them, but you are acting for all interests.

Mr. RAKER. What is there now you think.you are not getting that you think you are entitled to?

Mr. MATHEWS. Oh, I am waiving it.

Mr. RAKER. State it, because I am not going to act on this matter at the present time——

Mr. ELSTON. He did not mean what they were entitled to, but he meant what they asked for.

Mr. RAKER. Let him answer the question. I am simply here as one of the members of the committee. I am trying to assist in this legislation if I can. Now, if there is anything in here you think is not fair, kindly state it so that it will go on the record and we will try and amend the bill to take care of all as far as possible.

Mr. KETTNER. He just stated, in answer to my question, he thought he was treated fairly.

Mr. MATHEWS. You understand, this bill has passed the Senate, and was passed on by the city officials and they were satisfied with that bill. Now you are changing that bill, and I am apart from my clients and my people, and, as I say, I am cooperating with the people who represent the various interests besides ours in order to get a satisfactory bill, and should you find it necessary to consider those interests and reach a result different from that expressed in the Senate bill, that has been passed and found satisfactory to our people, why I wish for my own protection, without implying the slightest dissatisfaction with members of Congress, or implying any unreasonableness on the part of anybody, to say, that we are reaching a result here that, being different from that reached in the Senate, is not entirely satisfactory to me because it is different.

Mr. RAKER. But still you think it is fair to all concerned?

Mr MATHEWS. Yes.

Mr. OSBORNE. I want to say this, that speaking for the city of Los Angeles and for the Aqueduct people, I feel a sense of gratitude to the California delegation, and to all these gentlemen here, and to Mr. Finney, for the Sunday he has taken out of his well-earned rest time, for the way in which they have treated this matter. They have treated it in good faith, and the gentlemen who came up from Inyo County, and Mr. Adams, have acted in a reasonable way. And I feel a sense of gratitude to you, Mr. Chairman, and to all the California delegation, who have taken so much pains here to bring this about, and to my old friend Mr. Watterson, who has come here from a long

distance and who was always a level-headed man and has shown that he still is, and I appreciate this very greatly.

Mr. RAKER. I thank you for my part. My attitude has always been to give all these parties, in the different matters which might be before us, an opportunity to be heard, without any preconceived idea as to what the rights of either might be until we hear from all sides. And I find the other members are doing the same, like myself; and by doing that, although, in the first instance, some might think there is opposition, our only purpose is to get legislation that is workable and at the same time to give both sides a reasonable and fair opportunity to have their rights adjusted so as to prevent future trouble, and at the same time adjust them as they ought to be.

Now, if this is satisfactory, shall I say to the committee when they meet on Monday morning, to-morrow, that the representatives from California and from Los Angles City and these private individuals that came here representing themselves and various other people in Inyo and Mono Counties, are satisfied with bill with the amendments suggested, and that you desire no further hearings. Is that perfectly satisfactory to you gentlemen?

Mr. ELSTON. I think so, with the explanations the gentlemen have given us.

Mr. WATTERSON. As one from Inyo County, I wish to express my satisfaction with and appreciation of the services of the California delegation in helping through this matter.

Mr. DIXON. I would say, so far as I can see, that the bill as amended gives all the protection we can reasonably expect under the present conditions, and we are satisfied.

Mr. RAKER. If that is the situation, then you desire no further hearing before the full committee, if these hearings are printed as part of the hearings of the Committee on Public Lands, and we can take it up Monday for final disposition without any further dispute?

Mr. ELSTON. It is on the assumption that the final draft will follow out the amendments.

Mr. MATHEWS. May I say this, so that we will understand the entire situation: There is a further amendment which has been presented to the full committee, but which I apprehend affects interests other than the city and those of the gentlemen represented here this morning, and perhaps they should know about this.

Mr. RAKER. You refer to section 6. In reporting the matter to the committee, I will report that section 6 has not been acted on, and it is up to the full committee. Does that strike you about right, Mr. Elston?

Mr. ELSTON. Yes.

Mr. RAKER. And you, Mr. Osborne?

Mr. OSBORNE. Yes.

Mr. RAKER. How about you, Mr. Kettner?

Mr. KETTNER. That is all right, yes.

Mr. MATHEWS. By section 6, you mean section 4 of Senate bill 4023?

Mr. OSBORNE. Section 4, amending section 6 of the original bill?

Mr. RAKER. That is right. Now, gentlemen, I want to thank you for your courtesy and kindness.

The conference thereupon adjourned.

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